Interview with Richard Breeden

SEC Historical Society

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KD: Shortly after you became Chairman you had a pretty sizeable market break on Wall Street and shortly after that you had an earthquake on the Pacific Exchange. Take me back to that time and talk about dealing with those.

RB: Yes, it was the second day. The day after I was sworn in, it was a Friday, and we had an aftershock after 1987, a big market break, and in percentage terms it was much bigger. It was a 211 drop, as I recall, which today would be nothing, yawn, two hundred points. Then it was a much bigger percentage, 5 or 6 percent, I think. It was enough to get everybody's attention. It followed the pattern of 1987 in that it was happening, there was a shock on Friday and then everybody had the weekend waiting to see, my goodness, what will happen on Monday. I was worried that there was a button on my desk somewhere. I assumed that I would eventually find that there was an Up button and a Down button. I was afraid that I had leaned on the Down button without knowing it and the market was falling at the end of the day.

It was after lunch, Rick Ketchum, who I had inherited as Director of Market Reg—and that was one of my lucky days when I inherited Rick, who was awesomely talented and his knowledge of trading markets was encyclopedic. He had some terrific staff members, Brandon Becker, Mike Macciaroli, who I suspect we'll get to when we talk about capital rules, who is Superman, and various others. Rick comes into the office and said, "Mr. Chairman," I don't remember his exact words, "we've got a problem in the market." He starts describing that stocks are falling.

At that time there were only two stock quotation terminals in the entire SEC. There was one out in the hallway between Market Reg and Corp Fin, and one somewhere else. They were on two different floors. So while Rick is sitting in my office we have no idea whether the market has rebounded or is still going down. He and a couple of people from

Market Reg keep going out of the office, going down the hall to the stairwell, run down the hallway to look at the ticker, write down Dow Jones, what the index is, retrace their steps, run back to the Chairman's office with a little piece of paper. And I said to myself, among other things, when this is over, we need to fix this. This was a mockery.

The market had a bout of confidence problems and some program trading. It was a Friday afternoon and when the market starts going strongly south, late in the afternoon on a Friday, most traders, not knowing, why don't I just be flat and Monday morning I can put positions back on again.

People, I think, are reluctant to step in front of a train if the market has decided to move somewhere. If you have an imbalance, whether it's a lot of buy orders as the young Chinese markets had, when we helped set up the Shanghai market, you have a couple billion people thinking owning stocks is the way to get rich, so you have this huge order book and very little supplies. You have a lot of buys and no sells, or if you have a lot of sells and no buys a market can move very rapidly, and it will overshoot the mark of where it ought to end up just because of the imbalance. So we had that.

That put the press and everyone else in a frenzy, oh my goodness, are we going to repeat '87 again? Of course, '87 had several unfortunate events, which I had remembered from the time and studied, one of which was then-Chairman Ruder wondering out loud. He was at a speech at the Mayflower Hotel and walking through the corridor, people asking him what the SEC was going to do, and he wondered out loud that perhaps we would close the markets. Then that caused the decline to accelerate because no one wants to be trapped in a market that's closed. I think generally policy makers in Washington tend to be insensitive of how critical it is for markets to be open. You have trillions of dollars of value and closing the market is equivalent to a temporary expropriation of those trillions of dollars. No matter what their needs, people can't get in or out. So it's a very severe step.

David, I think, made an innocent mistake, and it's hard for many people to understand the power of words when you're in a government leadership position with the media and things that can be communicated all over the world very rapidly. I having worked for years at that point in the White House, I was familiar with what happens in the Press Briefing Room and the frenzy that can be triggered, so I was quite careful to make sure I didn't make any press comments. As soon as the market closed, I briefed the Chief of Staff, the Secretary of the Treasury, the Fed, everybody in sight about what we knew, which was very little, other than that this came out of nowhere. We didn't know anything fundamental that was underlying this. There was no firm that was about declare bankruptcy. There was no structural reason that we could identify for this.

Rick Ketchum called around to all the firms on Wall Street. Nobody knew what was going on. Nobody was particularly worried. There was not, "this is the reaction to X, Y or Z." It was a mystery to people. So our message to everyone was just stay calm, things will sort themselves out. There is nothing wrong and markets just do funny things, and you sometime have to wait for them to correct themselves. Monday morning, sure enough, we had a big meeting all day Saturday, all the division directors, we had lots of people in, who knows what.

KD: Were you gaming out what you might do if the market continued going down?

RB: There wasn't a lot of gaming to do. If the market goes down, it's going to go down. What is there to do? The Japanese, the Chinese sometimes, particularly the Japanese in those years, had this sometimes thought that you could tell a market which way to go. In Japan, you had a big scandal, two or three years in my term, where the Japanese securities firms were promising their customers that they would never lose money. That if they made profits the customer would get those. If the stocks fell in the Nomura or Niko, the big firms would reimburse them. Well you can't have a one-sided market. Markets move in both directions.

I remember giving a speech in Buenos Aires one time and telling people you fundamentally have a choice. You can be governed by markets or by ministers, and that's an election an economy has to make. And if it's going to be governed by markets you can't pretend they're markets but then still want to manage them. It's a capital market. If it doesn't like the economic policies that somebody in a country is pursuing the bond market may fall out of bed and land hard.

We didn't have a game plan for what we were going to do to control the market. It was going to do what it wanted to do. What I wanted to make sure was that we didn't have rumors, speculation, any kind of uncertainty about what the government might be about to do. Our orders were just, everybody needed to be at work and available to talk to people from the street if they wanted to communicate. We were very interested in staying abreast of the situation, but we weren't going to close the market.

KD: How about the Stock Exchange event? Do you remember that one?

RB: I do, not as well. I remember we had an earthquake and they shifted trading from San Francisco down to Los Angeles. We had to do some rewiring of some of the trading mechanisms. That was harder in those days because the technology wasn't such that everybody was connected to everything. It was also harder because we had either not yet done or were just about to do, or had just recently done, multiple trading of options.

At that time, the regional exchanges, their bread and butter was trading options and they had monopoly trading privileges. So if you had Intel and somebody else had IBM, and if Intel was something that was generating a lot of options values that would be going on one regional exchange and not the others. Very lucrative, but if you had an outage you had a problem because if people needed to trade options on Intel that trading post is now under three feet of concrete because the building fell down, and technically it was not legal to trade them other places. The Commission can give emergency relief to something like that.

In that case I think the physical market makers from San Francisco moved and went to Los Angeles or another facility where they could operate, so it was the same people doing it. Again, Market Reg jumped in to help make whatever adjustments needed to be made to technical rules that might assume something was happening in San Francisco, which is now happening in Philadelphia or Los Angeles. We might have moved some to Philadelphia, too. I can't remember.

KD: Because it's an SRO, so the Commission has to give it permission.

RB: Exactly. An example of why it is so important, only one of millions of examples of why it is so important for the SEC to have such talented staff that are experienced and knowledgeable, that when something happens in the market and you need to respond quickly to prevent dislocations of all kinds breaking up, you can do it because you have the people who have the experience, and the knowledge, and the insight to do it.

They were a little unhappy at me when I arrived at the Commission, these incredibly valuable people. Japan has this concept of living national treasures in the arts community mostly. I thought of the SEC senior staff as living national treasures. Therefore I thought that they should have beepers so that I could get a hold of them.

KD: Pagers.

RB: Pagers, which they were not accustomed to wearing. Of course this is before the now ubiquitous mobile phone and people didn't have a cell phone. I know it's hard to imagine that there was once a time without cell phones.

KD: I remember the time.

RB: Somebody might be looking at this interview at some point in the future and they won't believe either you or me that there was a time before cell phones. We didn't have cell phones. Rick Ketchum was a passionate runner and he liked to go out some afternoons when he wanted to clear his mind, and go run for 10 miles, which I was perfectly fine with. Anything that made Rick happy made me happy. But suppose the market decides to start crashing, you'd like to be able to have it vibrate somewhere and get him to call home. I had been used to, in the White House we all had beepers. If the President needs to get a hold of you, he needs to get a hold of you.

The speed of markets was nowhere near then what it is today, but it was still much faster than it had been even five years before because the telecommunications and the computing revolutions were moving forward forcefully. That was just one example of where the SEC staff had no email, they had no beepers, they had no cell phones, they had no computer terminals, they had no trading terminals. It was a wasteland. It was a wonderful agency operating with paper and pencil, a couple of abacuses, but the technology was Stone Age era technology. That's not a criticism of the agency not knowing. It would like to have technology. Every time it would ask for it, it was told no, we don't have a federal budget for that, and you don't need this and that.

That was one of the very high priorities I had in the early budget submissions was to make sure that we got personal computers for all the staff attorneys and that we'd link people so people in the L.A. office or in Denver could communicate with Enforcement in Washington without quarters in a phone booth.

KD: So you're keeping up with that technology that's sweeping through the markets.

RB: Trying to.

KD: Another way to keep up was legislation. I want to talk about the Market Reform Act that comes in during the first few months. I want to talk about your role in making that happen.

RB: I had the great benefit that I had been the President's spearhead in passing what became FIRREA, the legislation called FIRREA, the savings and loan legislation. I had worked with every committee chair, every ranking minority, every subcommittee chair, every ranking minority of the subcommittee that touched anything financial in the Congress. I had terrific working relationships, both with members and with their senior staff, which in Congress is quite important. We actually passed both the Market Reform Legislation, the Enforcement Remedies Legislation, and various other riders to appropriations bills to address things that were needed.

In Market Reform, we were trying to create what didn't exist, which would be a parallel to the Bank Holding Company Act. If you have a bank and it has a holding company, the Federal Reserve oversees the holding company. Then whoever oversees the bank—and that's very cumbersome and it's an intensive bank-style regulation—the examiners crawl all over the building and do whatever they do. If they would just publish the results of their examinations people would know what they're doing. But since bank secrecy is on par in the bank regulatory agencies with the National Secrets Act in the U.K. and top-secret clearances in the U.S., we don't have the benefit of knowing that.

You have oversight of holding companies in the banking side, but on the securities side there was nothing. You had the broker dealer regulated when Wall Street consisted of large numbers of small partnerships that were living off of fixed commissions and the income that generated, they didn't typically have holding companies and you didn't need to have holding company oversight. But once you got Sears Roebuck owning Dean Witter, Prudential Insurance owning Prudential Securities, General Electric owning a securities affiliate, major industrial companies acquiring General Electric-owned Kidder, Peabody, you had big companies that were acquiring broker dealers.

Then you had the issue of what happens if each of these subsidiaries separately capitalize. What happens if there is a big problem in one? Is there a contagion risk? Theoretically there's a contagion risk that problems in one area could bring down the overall entity. That was exactly what happened in Drexel Burnham, where you had problems in the holding company causing the overall entity to fail, though the broker dealer subsidiary was one of the best capitalized firms on the street. We learned—and I'm happy to go through Drexel now or whenever it fits.

The Holding Company Act was to deal with making sure that the Commission was beginning down the road of equipping the Commission to be able to do something similar to that was done on the banking side, but to do it with a much lighter touch. Extra reporting, large positions, large concentrations of risk, needed to be disclosed to the Commission, rights to go in and ask questions if need be, but not everything you do—we were not going to tell General Electric how to build locomotives or send examiners in to their locomotive factories

The parents were typically all public companies, so you start with this market regulation of companies through full disclosure. The 10Ks should contain everything about material risks. But in fast moving markets there might be times when something that was thought to be immaterial could suddenly become material, so the holding company legislation was intended to cover that.

KD: Was this part of the Market Reform Act or was this separate?

RB: Part of the Market Reform Act.

KD: A lot of that had been coming through for a while, and a lot of it was in response to the '87 market break. Right?

RB: Well you had the Brady Commission and a lot of efforts to study the '87 crash. But when you say coming through, things weren't moving at all.

KD: What got them moving?

RB: I did.

KD: Just go to Congress and say we need to do this?

RB: Yes. I knew how to pass legislation. You're not born knowing it and I had to learn. I wasn't born knowing it either, but I had learn in order to do the savings and loan rescue and it was all the same people. There were lots of other people in Washington who recognized the importance. I didn't dream up personally all the things that were in the bill. Congress has thousands of bills at any given time and it's only going to deal with some of them. So there is the need to push something to get it off the siding and onto the main track, and get the train pulling out of the station. And once you develop a little momentum then other people will pay attention and it can become easier to keep the momentum going.

But it's not enough to just say we had this study that was done in '87 and why don't we do a whole bunch of things. Because it tends to be that there is somebody who does want anything you're going to try and do than somebody who doesn't want it. It's much easier to stop things in a legislative environment than it is to make them happen.

It certainly helped that you had Secretary Brady who had chaired the Commission looking into the '87 market break. And you had Robert Glauber who was Undersecretary of the Treasury, but most importantly David Mullins who was scary smart. David could have earned a Nobel Prize any time he wanted to turn his mind to it. He was Assistant Secretary of Domestic Finance before Jay Powell became, filled that position. You had some talented people who had done a very deep dive and had some good knowledge.

I'm not sure, just as I'm sitting here thinking about it, I'm talking about the holding company legislation that we did pass. I can't remember the name of the bill, but there was a bill to deal with some of the Brady Commission stuff, which got into the SEC, CFDC, moving the regulation of stock index futures. That was a Treasury effort, not an SEC effort. I forget what that was called. It should have been called Bull Run or Battle of the Little Big Horn Act of 1989.

KD: Talk about IM. You're talking about modernizing.

RB: Investment management. Okay. Now we're getting to something important.

KD: You set up a task force pretty quickly to look at investment companies.

RB: Yes I did. When I became Chairman I was strongly of the belief that the mutual fund industry—I hate to call it an industry. That sounds like steel making. The invention of the mutual fund was one of the most important things that had happened to American consumers in the financial world.

Curiously, the 1940 Act, which at the time it was passed, there were very few of these pooled funds, but people thought there were some and that they ought to have some regulation. Whether it was by design or chance, I don't know, but the Act that was written worked spectacularly well. The statistics were even then mind blowing of how much mutual fund assets and the number of funds and the choices that were offered had grown.

Of course, that has continued over the intervening time with a steady expansion. And it gave the ordinary person the option, instead of just saying I'm going to buy shares of some big company, a name they knew, or day trading if they were more active, although that was harder. The friction costs, execution costs were higher. Information was slower, so you didn't have as many people day trading, though you did always have that to some degree. But then the mutual fund gave people an opportunity to have highly talented professional management pros on your side in the marketplace, hugely popular, rightly so.

Here we had 50 years of success and the industry was good at congratulating itself in its annual conferences and such, and what a wonderful thing this industry is, and they were all getting colossally rich. And the people who formed any of the big mutual fund complexes did exceptionally well. And God bless them. That's the American economy. But I was of the view that rather than sitting back after 50 years and congratulating ourselves we ought to worry about the next 50 years.

I had the good fortune of having one of the most prodigiously talented women I have ever encountered, Mary Ann Smyth, who had been my Chief of Staff. I thought she was so talented that I made her my Chief of Staff early in my tenure. Mary Ann was an incredible talent in many respects. She had been a professor, so she had an academician's rigor for analysis and dissecting a problem carefully and coolly. She had been in Enforcement, she had been at the CFTC, so she had a broad view of the markets. She had the intellect of a professor, and more than the average person's equipment of moxie. Mary Ann loved the Commission and had been there long enough, knew lots of people.

One of the things I rate right up on par with picking Michael Mann—I don't want this to sound self-congratulatory, but one of my other brilliant appointments was to put Mary Ann Smyth as Head of Investment Management. And having done so, and when I did so in part it was because I wanted somebody to be in charge of figuring out what do we need to do, if anything, to tweak this highly successful Act so that we don't develop problems that would discredit this vital tool.

In response to the Jimmy Carter era, the thing that saved the middle class from what happened in Weimar, Germany was the invention of the money market fund. Everybody's grandmother and mother could take their money out of where it was losing 8 percent a year and put it in a perfectly safe investment in government securities but getting a current return so that they weren't being destroyed by inflation. That had certainly been the most powerful demonstration I had seen of the creative powers of the market to solve what was otherwise a tremendous systemic problem, and to do it in a consumer-friendly way. As opposed to over in the banking system where the Fed's attitude was at the time of the interest rate controls, banks are making a lot of money. That's great for safety and soundness, not so great for the customers.

I felt that the '40 Act was tremendously important, but the money market funds and other developments were starting to get afield from the classic model of a pooled equities account being managed by somebody. So I asked Mary Ann to take her very best staff people offline from normal responsibilities and take a year, more if they needed it, hopefully they could do it in a year, and study the act and its origins and its current situation, and everything we knew about trends were going in the future, and develop recognitions for the Commission, and more broadly for Congress of what needed to be done to best equip us for the second half century. They did a wonderful job. A lot of terrific enhancements came out of the study, most of which were put into effect. Some were things the Commission itself could do. Some were things that required legislation.

KD: This is the Red Book?

RB: Yes.

KD: I've heard stories about why the book is red. Can you add anything to that?

RB: I attended Stanford University and Stanford Cardinal, our colors are red and white. Mary Ann was a Tar Heel, so the book was going to be Tar Heel Blue for a while until the Chairman got wind of it. We had a friendly discussion of what the color choices could be. It turned out they were running short of Tar Heel Blue ink in the Government Printing Office, and I discovered we could get a great deal on Cardinal Red.

KD: So you pulled rank. We were talking about investment companies.

RB: And the color of the Red Book.

KD: We established, you took credit for that.

RB: Well I give Stanford University credit for their colors. It had to be some color.

KD: We talked about money market funds, which saved the middle class. It also saved investment companies to some degree. Another technology that's coming along in changing the industry is exchange trading funds, and you were in the seat to approve or not to approve those?

RB: Yes. SPDR was the first. To give a historic context, there had been a long struggle for a decade or more as the futures markets developed financial futures to manage risk and to allow people to trade in baskets of securities. For a long time there had been arguments about whether stock index futures should be regulated at the SEC rather than at the CFTC and whether they should do agriculture, we should do finance. I didn't think that was particularly important because they could do it and we could do it. It just wasn't the end of the world.

What was most important to me was the Exclusivity Clause of the Commodities Exchange Act, which said that if something involves futurity that it had to be traded on the board of a commodities exchange. That I think had an innocent original intent of making sure that hog bellies were not traded out on the street corner, but had passed well beyond that. And that innocent provision, whenever government creates monopolies it is playing with fire, a very dangerous thing for the public, and that's what happened here. So the futures exchanges seized on the Exclusivity Clause and then became extremely skilled at bringing cases against the Securities Exchanges if they tried to develop any new innovative products for trading baskets of securities, alleging that those should be traded only on the futures exchange.

We were struggling with it because if it didn't get fixed in some way then trading in equity instruments, baskets, groupings of equities would move to London where they were not burdened by the idiocy of an Exclusivity Clause to take trading in equities and force it onto hog belly exchanges. I don't mean to be, the old rivalries, the Chicago Board of Trade and the Chicago Merc were where most of the S&P 500 futures contracts were being traded, were perfectly professional organizations and intelligent people.

I was happy to have them trading. We didn't want to stop them from trading. Whatever we wanted them to trade, we just didn't want them stopping evolution and innovation in the securities markets purely to transfer income out of New York City to Chicago. There should be good healthy competition and let people list products on the Chicago Merc or the New York Stock Exchange, whichever they preferred. Let customers buy them wherever they found the market to be best. But that wasn't what the law said, and we struggled with that.

At any rate, as usual the market is much better at fixing problems like that than the political system. So people had developed a SPDR, which was the earliest ETF. The concept as it wasn't a futures contract on the S&P 500, it was a basket of equities. It could be traded as a group to replicate what was being done in Chicago, but replicated in a different way that didn't trigger the exclusivity provision of the Commodities Act. I thought it was a great thing, a wonderful development when I heard about it from Mary Ann. She starts explaining to me that we have this proposal. Actually the SPDR's product had been pending at the Commission for a couple of years and had been sitting there gathering dust.

Again, it was one of these relatively innocent things. Corp Fin has a deep-seated belief that if you're going to sell anything it has to be proceeded by delivery of prospectus and that is a matter of religious belief. It's also the law, but it goes way beyond the law into religious belief.

Market Reg has views about how trading has to happen, and investment management has a statute that says you have to value something on its net asset value at four o'clock every afternoon, and that makes it impossible to trade it at 12:30 p.m. when you happen to want to trade it, because now you have a very stale price and you have to wait until the next day.

Well waiting is not a good thing for markets. Markets like to be able to react and react quickly, and time is money. So if you realize that something is over-valued or under-valued you want to trade on that, not wait until nine o'clock the next morning when the rest of the world has woken up to what you perceived and could have traded on profitably.

The whole idea of having markets is have them open, have them liquid, have them able to trade. And the SPDR, which was a method of doing that and having something continuously traded, but there was a basket, collided with the four o'clock rule and it collided with the prospectus rule, because if you jump in buy the SPDR you don't have time to get a prospectus. In fact, it's not an IPO or it's not a '33 Act offering, it's continuously traded.

From one division's perspective they had a square peg trying to fit in a round a hole. From another division's perspective they had round peg trying to fit in a square hole, and the other division thought it was a triangle. It was a perfectly legitimate product, but each of the divisions had a, "this isn't the way we do business." They should change the product to accommodate the way the staff does business.

After listening to everybody I said, all right guys, what makes the SEC different is instead of telling the market that it has to accommodate to our preferences, we have learn what the market develops and what the investing public wants and then we have to make sure that our concerns about disclosure and fairness, and manipulation, and the perfectly legitimate reasons why we regulate in trading things are done, even though it's a round peg. So figure it out.

I can't remember, but think I mentioned when I was thinking about putting this on the calendar for an open commission meeting and voting it through whether they were ready or not, so they could either saddle their horses and get it done—

KD: They being the commissioners?

RB: They being the division directors. I just was of the view that the years they had spent thinking about this were long enough. If people had legitimate concerns about the product, let's try it. We'll watch it. Put it in the marketplace. See if the public wants this. This may be an academic discussion. We might make it available, nobody trades it. Or as actually happened, make it available, and today, there's 4-1/2, $5-1/2 trillion of what we now call ETFs rather than SPDRs.

There was an opportunity. There were a lot of areas where when I came to the Commission I had a background of worrying about overly broad regulation across the government. I had seen it in area after area where you had at its kernel something that needed to be done. But if at the time a statute was drafted or a regulation was written, if it is written too broadly and the targeting of the regulatory response becomes too broad then you can have tremendous costs either in compliance costs, too many lawyers, too many pieces of paper have to be filed, or costs in terms of the drag on innovation and less economic activity without reason.

This was an area where each of the divisions had legitimate concerns based on the SEC's experience, based on our statutes, but those concerns just didn't happen to be applicable. They were technically applicable, but this was just a new kind of a product. So you had to find a way to harmonize the issue of, well is prospectus delivery really that important in this kind of a product and is the four p.m. rule important in this kind of a product? The trade reporting or the Market Reg always has 97 reasons why something needs a five-year proceeding. I love them, but they can take forever, at least in my era, they can take forever.

I actually put a rule in, informally with Market Reg saying that when they sent me a letter to sign, we would get a lot of, 1,200 or 1,300 letters a year to Congress, and many times it was about things in Market Reg. And I told them henceforth they could not send me a letter that had more than 75 footnotes, because at the time they would send me a letter to sign with 300 footnotes, and I said you've got be more economical, I can't read all these footnotes.

KD: Was this a matter of exemption to the '40 Act?

RB: I think we had to do some form of exemption under the '33 Act and under the '34 Act, and under the '40 Act. We certainly had to adjust things that the divisions were doing their normal guidance and policies. I can't remember all the technicalities other than that we sat and discussed it among the division directors. Nobody could give me a reason that the public was actually going to be harmed. It was just, well we'd rather have them have the prospectus, or we'd rather have the NAV at four o'clock. It was just an example of some inertia that, again, you had to want something to happen. Frankly, at the time we did it, I didn't know whether that product would be widely successful or not successful at all. How do you know?

The general philosophy of the securities laws, on a disclosure basis, is you can create and trade anything as long as you describe all the facts about it, so you don't have to come in and get a permit from the government to develop a convertible bond or a PIPE, or some kind of variation or new form of trading something in the marketplace. We allow for that innovation and then the philosophy is the government can come along later and control any abuses. You didn't have the, I forget the phrase they used to use in interstate commerce about public convenience.

KD: Public Convenience and Necessity.

RB: Yes, where you have to prove ahead of time in a litigated proceeding that you really need this product. Well, let it fly. That's what we did with ETFs and obviously it transformed the marketplaces. We knew it then compared to today.

Another thing that did the same thing was electronic trading. I can remember John Dingell, Chairman Dingell of the Energy and Commerce Committee, who was by far the most powerful member of Congress at the time, telling me in no uncertain times that allowing electronic trading systems was completely unlawful and that the Exchange Act had various provisions requiring exchanges to be in mutual form and not to be profit-making entities and all these different attributes of things.

Of course computers had come along and now it was possible to do what the New York Stock Exchange does, in a black box or a green box for that matter, but in any kind of a box. The exchanges would argue they did it better than a machine could do, but you could run the machine in all the off hours when the Exchange wasn't open, so that instead of having 18 or 19 hours of illiquidity you could have a place to trade. And of course you didn't need to have all the humans making an income, and therefore you could reduce the cost of trading with electronic networks and access more for lots of reasons.

I think Reuters had gotten one of the first experiments in that. I remember there was a period of time where I signed about 24 exemption letters to allow new forms of electronic crossing networks, really exchanges in another name, but they needed to be named something else not to violate the provisions of the '34 Act. I figured if Dingell was Chairman, Dingell was going to put me in jail, I might as well give him lots of counts to do it. So we unleashed electronic trading to great results.

I'm not a fan of dark pools and I'm not a fan of some of today's manifestations of what can be done electronically. I deeply believe in transparency and there are serious risks of front running and things of that kind. The reasons why you look carefully at how anybody is trading securities is to make sure that the customers are at least aware of the risks of how things unfold. We had erred as a nation in that the last time the trading markets had really been studied seriously was the special study of the SEC, which was '74, '75, that era.

KD: '64.

RB: '64. So it had been decades during which time, the revolution in technology and communications, as of 1989 and 1990, when I'm sitting there worrying about these things, had transformed the world from the 1960s, even more so today compared to then.

We had an Exchange Act that was written in 1934. And the conditions that it was written to govern, and the Act has evolved and kept pace through the SEC's efforts wonderfully. But it still was written for a time when you were a Pony Express era.

I thought the electronic trading was something that was reliable enough and observable enough that it offered new alternatives for making markets efficient and accessible. To me it was a compliment just as the SEC under John Shad pioneered EDGAR.

KD: Which came online during your time.

RB: Which came online during my time. We made everybody use EDGAR once they had finally finished building the system. We were making disclosure documents accessible, why shouldn't we make trading accessible. I think it was a triumph of the SEC's ability to evolve, take a statute that's decades old and out of date in many respects, preserve all the principles, but apply them in a new way to keep moving forward.

KD: Speaking of making things accessible and changing with the times, I want to talk about a couple of rules that came in later that were pretty significant.

RB: I have to tell you about EDGAR. During my five years in the White House and all the time at the Bush Task Group, John Shad was Chairman of the SEC and a wonderful person who sadly died too young, not as young as Linda Quinn. John was an outstanding Chairman, pioneered shelf registration, a lot of innovations.

During my White House years every time we would have a meeting with the Task Force he would come in and start telling me enthusiastically, he would get all worked up, he was very enthusiastic about EDGAR and how EDGAR was coming, and EDGAR was going to make everything efficient and accessible.

In the old days, pre-EDGAR, if you wanted to see a prospectus they got physically filed. I used to have to carry them down on the Eastern Airline shuttle and file 12 physical copies of a prospectus and get it stamped. And then they would put it in a mail cart where it would sit for who know how many days before they would walk around the Commission doling out the copies of this. When the SEC would finish, it would send these documents to 3,000 public libraries around the United States, and people then could go to their local library to read a document that is now months and months out of date. So John was talking all about we were going to make this electronic where you would be able to sit in your office and read the prospectus.

So I become Chairman. I go over and one of the things I wanted to do, in one of my first meetings with Jim McConnell, who was the Executive Director of the Agency, I said, "I want to meet EDGAR." He said, "What do you mean?" "I said, "Well I've been hearing about EDGAR from John Shad for five, six years now and I want to meet him." He said, "When?" I said, "This is a good time. Let's go find him." So he dutifully leads me down.

EDGAR was a big mainframe computer at the time, sitting in the basement at the SEC's building, humming away. I remember going in there and came around. "Okay, this is great. Nice to see you, EDGAR." I said to Jim McConnell, "By the way, what's above us here? What's on the floor above us?" I knew the answer. The answer was a delicatessen that had been rented out in the ground floor of the SEC's building to generate $300 of rent or something. So the first time that a hamburger caught fire, a grease fire in the delicatessen, the D.C. Fire Department would have come in, turned on the hoses and all that water would have gone right down on top of EDGAR and would have knocked out the entire disclosure system of the United States.

I said, "You know, we really need to move EDGAR, either put him on the top floor, or even better." There was no backup power. It was vulnerable to flooding. It wasn't cooled properly. They had all these big fans set up. The thing could melt down. They had done this extraordinary work to create something that truly revolutionized disclosure, and yet it was vulnerable. We were talking about earthquakes in San Francisco. The damage of one hamburger on fire would have done to the whole country would have outweighed that a thousand times.

I called up Bill Seidman, who was Chairman of the FDIC and who I knew very well, was a good friend, and asked him if he happened to have any computer centers handy, locally. I told him what I was looking for. It turned out the National Bank of Washington had been closed, and unusually it had been a payoff of depositors rather than a merger of banks. So the FDIC was left with a brand-new computer center in Alexandria, Virginia that the National Bank of Washington had spent $25 million building, and they didn't know what to do with it. It had backup power, it had air conditioning, it had everything.

So we moved. We got a 50-year lease at $5.00 a foot and got it essentially for free, and moved EDGAR over there, and he's been happy ever since.

KD: A much better place for him. Let's continue with Corp Fin. A couple of rules in 1992, you had the first set of small business rules, which appeared to be related to the overall economy of the times. There's also the proxy rules. Let's talk about both of those and your role in those.

RB: Okay. Both very different issues. We talked about 144A earlier and the innovations there. I think in many ways, for me as Chairman with my background, I grew up working on IPOs and working on offerings. Every day of the week that was my law practice. So for me Corp Fin was bread and butter. It was the heart of the Commission's role.

With no disrespect to any of the other divisions, but the core reason the SEC exists was to have the protections of disclosure, both in connection with an offering and continuous disclosure. That was an area that I knew a lot about. I was very interested long before we got to the small business and proxy rules, in addition to 144A, there were a lot of changes in the M&A world. One of the things that Linda Quinn and I had very early on in that domain, again on a theme of modernizing and how you adapt to the internationalization.

Ford Motor Company decided to make a tender offer for Jaguar, the car manufacturer in Europe. Not something that worked out terribly well for either Ford or Jaguar in later years, but that's a different story. It turned out that a large portion of the shareholders, Jaguar is a U.K. company with a lot of U.K. shareholders, but a large portion of its shareholders were also in the U.S. The U.S. had the Williams Act, which provided if you make a tender offer there are certain time periods that you must observe. You have to within so many days do this and in so many days do that, and when you acquire 5 percent you have to make a disclosure.

Some of it is mechanical, of how an offering has to be conducted in minimum time periods so that shareholders are not unduly coerced. You want to be sure that they have enough time to evaluate the offer, evaluate the response from the company who says, no, we're worth far more than that. Well this guy's offering a 10 percent, or 20 percent, or 30 percent premium, but the target says, no, they're trying to steal you blind, we're really worth much more. The process includes time periods to make sure that shareholders get the disclosure documents and have to think about them.

In the U.K. they had an SRO called the Takeover Panel, which are private sector lawyers and bankers in the city of London who on a rotation basis they go on the panel for a year or two, or three and then they rotate off. The Takeover Panel had a statutory basis, but basically wrote its own rules. Their rules were the mirror opposite of ours. If ours said you have to make an offer and leave it open 60 days, you have to wait 60 days before you do something, their statute said you have to do it and then wait 60 days. So you could not physically, you could have the world's most talented lawyer, you could not comply with both.

That was a problem because then it essentially meant that an American company couldn't make a hostile takeover offer for a U.K. company, the U.K, one of the few. If it was France or Germany, or Italy, they would have been very happy with that outcome. But credit to the U.K. people, they believed as the U.S. did, that an open market for corporate control was very much in the interest of a dynamic economy. But we had this problem. You couldn't do both and if you made an offer to half the shareholders and you got half the votes, you're only really ending up with a quarter.

So Linda and I got on the phone to the Takeover Panel and called them up and said, here we are. We introduced ourselves and explained the problem. Here we have this offer and your rule says this and our rule says that. We talked it through. The U.K. often talks a great game about how flexible their regulations are, but they aren't always bold in changing the way they do things.

Long story short, we ultimately ended up modifying by order our Williams Act procedures to dovetail it. The Brits changed some things, we changed more, to make it possible for Ford to make that offer for Jaguar, which was successful. They ended buying the company. But it was the first of its kind of a transborder tender offer needing to operate in multiple markets where different regulators had different rules. It was something Michael Mann and I, and Linda Quinn worked on in IOSCO to try and get people sensitive in these other countries that we needed to be able to harmonize processes that when it's just a question of timetables and deadlines, and so on, that when you're dealing with an international offer you have to be able to change the rules.

Linda Quinn was a genius at this kind of thing. She worked for many years at Sullivan & Cromwell. She was a superb technical lawyer. She understood every spot where somebody would need a piece of paper or need a signoff and where the liability, if something wasn't done right, would be created. She also had a public policy viewpoint of understanding we're here to enable markets, not to curtail them. Where there is a legitimate business purpose we want to try and encourage that. Ford-Jaguar was one of the ways, multi-jurisdiction offering system in Canada was another.

I can remember, poor Linda, we had one time, AT&T bought National Cash Register. They had a pooling of accounting issue. Pooling at the time was determined on whether good will had to be capitalized or whether you could write it off, very stringent to when you could write it off. Companies hated having this long tail of amortization of good will.

I remember the Chairman of AT&T calling me and complaining about the Corp Fin staff was being sticks in the mud, that might not have been the exact phrase he used, but they were holding up his deal for NCR and they had $4 billion good will, which seemed large then, today not so bad. These very hyper technical standards of what you had to do, what would destroy pooling. If you read a newspaper after three o'clock in the afternoon on a Tuesday, it could destroy your eligibility for pooling, or if you paid a dividend at the wrong time. And they had tripped over one of the standards. We really need to do a pooling. I can't actually remember, I think we did give it to them in that case, but I'm not a hundred percent certain of it.

What I do remember very well is telling Linda and having her participate in the conversation and then her saying, “All right, I’m going to talk to the branch chief and the reviewer. I’ve got to make sure that we’re not just woodenly applying this rule.” Actually now that I think about it, I think she later came back and said, “Okay, we’ve studied it carefully and they don’t deserve pooling, and here’s why.” She had not just the mechanical case, but why it wasn’t appropriate.

In general, I was blessed in Corp Fin because I had not only Linda Quinn, I had Elisse Walter, a future Acting Chairman of the Commission, a future commissioner, dominating, terrific intellect, and a wonderful person. I had Meredith Cross helping with the proxy rules and other things. You mention some names you are inevitably slighting others by not mentioning them.

But the team at Corp Fin was terrific and they did wonderful things during that era and my direction to them was fine, let’s be sure we make the process of issuing securities and the process of being a public company as efficient as possible because we should have a preference to have companies go public, be free to remain private companies if they want, but having the American public able to own a piece of Apple or Google, or IBM, or whatever company, is a good thing. So the SEC should not have it be so painful to comply with all the rules that fewer people do it where fewer people can offer securities.

The small business rules are born out of a concern for exactly that. Virtually all the job creation in the United States comes from companies with 25 or fewer employees. Virtually all the industries of the future come from disruptors, little companies that figure out a better way to do something. It’s not the big established dinosaurs that come up with innovations. They’re happy to just, life is good, and they go along. But where the real dynamism in the economy is, is in the small business sector.

If you want to raise, and these are numbers relevant to 1992, not 2019, if you’re looking to raise five to $10 million of financing and it’s going to cost you four to eight million in legal and accounting fees it’s really not a very attractive option. We had rules that worked really well for larger companies. John Shad and Linda Quinn had developed shelf registration. So if you were General Electric you could pump out securities almost on demand off the shelf. You had a registration there, overnight you could put it out. With 144A, we made it possible for big companies to issue debt securities instantaneously. Not just American companies, by the way, foreign companies. 144A was one of our tools that we used for enticing foreign companies to try the U.S. markets and get used to it, and by giving them a route that was costless and painless, not totally costless, but relatively easy to do.

Small businesses, we had a really big problem. In 1989 to ‘90, the world’s banking regulators took one of the most disastrous steps in modern economic history of adopting the Basel Capital rules. I was recently rereading a speech I gave on that in Bocconi University in Italy, which we ought to put on museum. It’s a darn good speech, collectively written by a number of my very talented senior staff.

The offering rules came about in part because when the Basel Capital rules were done, it used to be that an American bank had to have 6 percent capital in those days against a loan or against holding a treasury security. So they were not prejudiced if they made a loan to a farmer or to a car dealer, or to any small business.

Then under Basel, the world’s central banks in their infinite majesty and omniscience, at least if you ask them, they are omniscient, had seen fit to pass a capital rule that said if you make a loan to business you have to have 8 percent capital. But if you buy government security you need zero, because they were risk-weighted capital rules, and they said there is no risk in buying government security, no credit risk because these rules were to reflect credit risk. Of course, there is huge market risk, interest rate risk in buying government securities. The bond market goes up and down every day and you can lose your shirt in a hurry with bonds.

But when I later asked a leader of the banking group of why their rule didn’t cover market risk, they said, we didn’t have time to get to that. It took us ten years to develop the rule for credit risk and we didn't have another. We wanted to get that done. What they did was massively distort the banking systems of the Western world. So all of a sudden when the U.S. bank regulators put this into effect, a small community bank in Illinois could go out and buy a billion dollars of treasury securities and need zero capital. But if they wanted to make a loan to a local farmer, every time they made a loan, they had to come up with 8 percent capital against it. So naturally people stopped lending and began bulking up in securities purchases.

At the time it was called the credit crunch. All the newspapers, all the magazines, everyone, there were cries from businesses all over the country. Farmers couldn't get working capital, equipment dealers, the John Deere dealer in Iowa couldn't get financing, for planning for cars, farm equipment, banks just walked away because they were loading up on treasuries.

KD: And there's a recession going on here, too.

RB: Well this largely triggers the recession. If you shut off credit to the only part of the economy that generates jobs and growth your GDP changes in a hurry and not in a positive way. We couldn't really control, we couldn't change what was going on at the banks, but we did take a look at what our rules were to see if we could at least at the margin make it easier for smaller businesses.

Linda Quinn and her team went through and we adapted all of our '33 and '34 Act documents to small business. We developed a Form 10KSB, standing for small business, a Form S1SB, and so on. For example, we required two years of audited financials if you had revenues of less than, I think it was $25 million a year, whatever the threshold was. Two years of audited financials to make an offering instead of three, and in the selected financial data we required three years instead of five for a bigger company. Not earthshaking, but it could save a small business a million dollars in accounting fees to reduce the lookback. I thought it was worth doing, and we similarly made 10Qs and 10Ks much simpler for the smallest companies.

It was a terribly important effort. The Commission sometimes gets set in its ways and overlooks things, I think any government agency, things that are working fine were not your priority. You're not always reexamining them, you're looking at the next problem. We had a perfectly great disclosure system, but it was costly. It was not well suited for small companies, so we fixed that and made it easier.

KD: That's a great explanation of where that came from.

RB: That's where it came from.

KD: I want to do the same thing with proxy rules. It's very different.

RB: That's shareholder democracy. It was very important to me. Of course this is an era where the takeover market had, when I started at law practice, very early on in my practice of law the first hostile takeovers got started. Bruce Wasserstein was an associate in the same firm I was. Just to prove how much better he did than I did, he has a large building at Harvard Law School named after him, I do not. That's all right. He deserved. There were a lot of developments in the M&A world and hostile contests.

In parallel to that there were people coming along saying, if you have a badly performing company and it's producing mediocre returns compared to peer companies, instead of waiting for Carl Icahn to come along and buy it and then fix it, fix its problems, and have the profits when he resells it go entirely to Carl and his fund or Carl personally. And there were lots of raiders at that time, Saul Steinberg and Icahn, and many others, but they were all the same thing, a similar pattern of looking for companies that are performing sluggishly. They thought those assets could be managed in a better way to yield a higher value, and that was the corporate control market.

We deeply believed that that was essential to the productivity of the U.S. economy, that you shouldn't just sit there with a company waiting for it to someday go bankrupt. Let somebody else step in who believes they can generate more value. Should that be the only route for fixing a sluggish, declining company, a company that year after year, after year, can't get it right, can't produce similar earnings and total shareholder return to its competitors.

So the active shareholder activist role was born saying, all right, rather than buying out that company, and TWA is purchased and goes out of existence, gets recombined and the acquirer doing that, what about from the outside people buying a significant block of shares and then trying to change the Board to force change, or at least urging, putting pressure on the Board, embarrassing people to say, come on, what's going on here with this company, look at your returns year after year.

KD: Are institutional investors driving this, too?

RB: A great interest in institutional investors in doing this. They of course were not legally allowed, nor would they culturally to do takeovers. So if they own shares of TWA and it was performing badly, and it was very low return to the pension plan, and Carl Icahn comes in and buys it and then he fixes it up, and he makes a hundred percent profit, that didn't help the pension plan. They got a little premium at the beginning, but they didn't get the intrinsic value of the company. But if they own shares of that company and somebody else, Ralph Whitworth comes in and runs a tender offer and demands seats on the Board and gets on the Board, and then forces the company to pay more attention to its returns, maybe changes out the management, the pension community and the institutional investors are sharing in that benefit.

There were efforts that started going on and I noticed that companies were actually using the proxy rules to attack the shareholders who were trying to rattle their cage. Nell Minow and Bob Monks were involved in an effort to shame, I think it was Sears Roebuck, which had had legendary underperformance for decades and had just been declining from the '50s on. They were trying to focus and get all the institutional investors to cooperate and asking for a new member of the Board or two, or to make changes. Sears actually went to court and sued Bob and Nell for violating the SEC proxy rules. The language in the proxy rules said if you're soliciting votes you must deliver a proxy to all the shareholders first. A big company with millions of shareholders, it's expensive to write and print, and mail a proxy. You're talking millions of dollars. I happened to know Nell from working at OMB

I thought it was a perversion, to put it mildly, to have this underperforming company using the SEC's rules to sue the shareholders who were trying to petition the Board, who supposedly represent the shareholders to run the company better rather than waiting for it to be bought out as it ultimately was, not very successfully. I said this is an outrage and we got to fix this.

Simultaneously, the problem of executive compensation had gotten more and more controversial in the public eye as executives were getting bigger and bigger pay packages driven by equity awards. The SEC proxy rules had not been updated in 25 years, and the disclosure standards for equity awards—we had extremely detailed and precise rules for cash, but the big paychecks weren't coming from the cash awards, they were coming from equities.

We tried to address the problem in several ways. One thing, we tried to enhance disclosure, we did enhance disclosure of the linkage or lack of linkage in any given company between pay and performance. One of the proposed proxy rules, which I asked for, was that the company had to put in a chart showing their returns to shareholders and the returns of a basket of peer companies. They could use the market as a whole, they could use their own indices. If they wanted to say, here are our peer companies, they had to disclose who they were measuring, but they had to draw a graph so that it would be easy to see pay or performance are both going up or performance is going down and pay is going up, and at one glance you could see the abusers.

A quick aside on that one, Linda Quinn came up later after I told her, and I was very proud of this. We were going to make it simple to look at a glance. Linda said, "Mr.

Chairman, we can't do that." I said, "Why not?" Actually I probably said, "Yes we can." And she said, "No, we really can't." "Why not?" She said, "EDGAR can't draw a picture. All EDGAR can do is show you words." I said, "Well, send EDGAR back to school." Graphics were exploding at PCs came along in the early, I don't think we had PowerPoint in all its glory that we have now. The graphics programs were coming along, and I said, by golly, we will teach EDGAR to put in that picture and until then they can file that in the old mailroom. Actually I had already turned the old mailroom into a gymnasium for the SEC staff, one of my better management activities to try and help the staff.

We had the pay and performance. We asked for the management disclosure and analysis MD&A section of the '34 Act would require a new compensation disclosure and analysis section to be written so that the Compensation Committee of the Board would have to describe why they made the awards they made to the senior management. And we required them to put the names in the proxy so that people could see Henry Kissinger or whomever it was that had signed off if it became an abusive pay practice let people see and hopefully maybe have the directors think about what they were approving. Then we amended the disclosure table to include the value of stock options, and that was white hot controversial with the business roundtable.

KD: Why?

RB: Because options were the Holy Grail. It's where they were making the big bucks. I remember Jack Welch coming to see me three times, the only time Jack Welch ever thought he was important to come see the Chairman of the SEC and probably there hadn't been other times. But three times he came to tell me that stock options had no value. They shouldn't be in the proxy. This was outrageous because there was no value. If the stock price went down the option expired valueless, so how could we possibly put in that it had value. I knew personally Myron Scholes, and the Black-Scholes Theory had long since been, I don't think the Nobel Prize had been awarded, but it was there. We had methods for valuing options. I said, you can't seriously argue that if somebody gets an option tenure, a fixed price option for a million shares that's worth zero. Come on, be candid.

In fairness to the roundtable, I think it was the CEO of General Mills at the time, was detailed to come and work with us, if we were going to change the disclosure rules to try and make sure we had a really good handle on options. I was determined that we were going to add the value of equity compensation to the Summary Disclosure section in the proxy. In some cases it was 98 percent of the compensation. With a straight face you couldn't say you had a compensation disclosure table if it left out 98 percent of the possible value.

We thought those things needed to be done to try and deal with the loss of public confidence in the markets due to abusive executive compensation. There were people saying that it ought to be regulated, the government ought to put limits on it. There actually were some tax code proposals floated and enacted dealing with gross-ups for parachutes, and putting a million-dollar cap on some forms of compensation for deductibility purposes. I didn't think the SEC could regulate it other than making sure that the facts were out on the table and let's let companies have to, in the marketplace, defend the compensation they're paying in light of the results they're achieving. In most cases I thought that compensation was probably well earned. What we needed was better transparency.

Then we had the Nell Minow and Bob Monks problem of use of the proxy rules to stop communications intended to make, particularly institutional shareholders, to deter them from talking to one another. So the CalPERS shouldn't be able to talk to the pension plan in New York or CalSTRS, or Wisconsin, or what have you, even though they all owned a badly performing company and they had a legitimate right to talk about what do we want to do about this.

Lastly, there was how do we open up a vehicle so that shareholders can make changes in the Board. And the SEC rules at that time said you can run a proxy contest, but you had to replace the whole Board or none of it. So it was all or nothing. Shareholders economically should never vote for that because if you replace the whole board you're changing corporate control with no premium being paid to the shareholders, so why should shareholders ever vote for that. Yet the rules were just all or nothing. So I was determined to change the rules to say if you want to vote one director out, two, three, four, five, it doesn't matter, you can run what we call the short slate proxy contest to leave it to the shareholders who own the company the decision of how many candidates they want to put forward and then let all the other shareholders vote.

We had a package of these elements that came together in the proxy rules that were, they say the rules hadn't been overhauled in probably 25 years and it was a very comprehensive package. We gave a safe harbor that I think said up to 25 institutions could talk together as long as they all owned the same stock they could freely talk and no one could sue them claiming they were violating our rules, and we put the changes in the proxy. We adopted the short slate Board elections. Then we just had to pass it with the entire corporate community apoplectic about it, calling the Treasury and complaining.

I remember John Robson was then the Deputy Secretary of the Treasury calling over and saying, "The roundtable was very upset about all these rules." John was former CEO of Pfizer. He was of that tribe.

KD: Were there challenges on the Commission?

RB: No, not really. We spent a lot of time working the issue. This was one that we had to get it right. This was not something the Commission could politically afford to get wrong. It's not something you could revisit every year or two to fix. This was a course correction to modernize the proxy rules. I wanted us to be unanimous. I wanted us to make sure that all the commissioners were on board to what we were doing. We spent a lot of time, Mary Shapiro, Rick Roberts, myself, talking through that issue. While there are always slight differences of opinion, as I recall, the rule passed unanimously.

KD: You didn't have to send it back to Corp Fin for adjustments or anything like that?

RB: That happened. We worked on it for a long time. There were constant iterations and constant edits and changes. We would meet with the business roundtable. We would do a draft of something. We shared it with the business roundtable. They would give us criticisms. We would then talk about those. We would accept some and not accept others. It was an iterative process that myself, the staff and the other commissioners were all very actively involved in. I think everybody recognized the importance of trying to do this.

Shareholder democracy didn't exist at that time. To have the people who were supposedly owned by the shareholders suing their own owners for not complying with the SEC's regs was certainly too far. You are not going to take our Commission and use it against the shareholders that we were created to protect with us just sitting there and not responding.

I'm obviously biased because it was one of my most cherished initiatives, but I think it's an example of the Commission at its finest. All of the divisions, but mostly Corp Fin, working to update a set of rules that sadly had just become outdated. They weren't bad rules, but they were dealing with things in the marketplace that didn't exist when those rules were written. They needed to be updated and we did. We modernized it.

It helped that when the roundtable went to the Treasury and said, you need to stop that, you need to fire Breeden if you have to, but this needs to be stopped. When they went to the White House, Secretary Brady knew how the President felt about me. They said persuade Richard because you're not going to get around him. The Commission is the entity. Treasury can't write these rules. The Commission has to do it. And we were going to have to be accountable for how we did. I think the rules have stood the test of time pretty well. It's hard to image what we would have been like without having contested director elections.

Certainly lots of companies wish that I hadn't given birth to the activist shareholder movement. Without endorsing every campaign and every activist it was something that made corporate control more responsive and our corporate governance in this country has become better as a result of those proxy rules and what we did. It's not perfect, but we made it better.

KD: Let's talk about enforcement. I want to get a sense of SEC Enforcement when you came in, when you took office. Did you see things that you felt that you wanted to change?

RB: Definitely. For starters, I was what I would call a law and order Republican. I never had the slightest doubt or issue, or reluctance to enforce the law. We're a society of laws, you have laws, people need to obey them. So to me, enforcement is critical to the entire rest of the Commission working.

An interesting example is Great Britain where they are spectacularly good at writing rules, but they don't enforce them. The Securities and Investment Board in those days had 85 people writing rules and giving speeches about their rules and they were all great, but they had no power to enforce their own rules. That had to go to the Serious Fraud Office or somewhere in the British government there must be a miniscule Fraud Office.

KD: How were things working here in the U.S.?

RB: The thing globally that makes the SEC most unique, other than its resources, is the fact that it can enforce the law. People can walk from the Enforcement Division down to the D.C. courts and seek an emergency injunction to freeze the assets of a Ponzi scheme, for example. You have to write a memo and send it over to the Justice Department. In Japan, they have to go to the Tokyo police. They're busy dealing with, if you ever saw the movie "Kill Bill," the Japanese police have to deal with lots of serious problems like the New York PD. If you said that the New York PD, like Tokyo, is responsible for enforcing Rule 10B5 they'd laugh at you. So enforcement doesn't happen. In the U.K. it doesn't happen, but it does happen here.

I certainly came in believing that if you have laws, they need to be obeyed. If the law is broken there are avenues open to you to get the regulator or the Congress to change the law, but you can't take it into your own hands and just say, that law doesn't apply to me.

KD: You talk about Ponzi schemes and that's an easy one, people might go to jail for that one. But when it came to instances of corporate malfeasance, there were things like settlements.

RB: Yes. The Commission had long had a practice, like other prosecutors, of settling charges. It promotes efficiency. It avoids the risk of loss at trial. There are lots of reasons why you can settle rather than litigate to the end.

If you're not careful as a manager, the Director of Enforcement as the senior manager and the Chairman to whom the Director reports, you have to be sure that settlement doesn't become a crutch. We can file a suit, maybe it gets a lot of publicity, maybe the Commission talks about it, then before you really have the nasty work of going to trial and proving it to a jury you reach a settlement. Nobody admits or denies. There are good reasons for that in terms of efficiency resources and otherwise, but you don't want that to be something that is used too often. Of course, the critical thing is what are the terms of settlement. And you don't ever want the staff being afraid to go to court and litigating. It's my view that you wanted people who were feisty and who loved a good trial, and you wanted the defense to understand that the Commission is not reluctant to go to trial.

Tom Newkirk was our head of the trial section in Enforcement, was a terrific lawyer and some others, Alan Cohen and some other terrific litigators working in the Enforcement Division. I wanted to make sure that we gave them extra resources and lots of support, moral and otherwise, from the Commission to understand, we want you to try cases. We understand that if you go to trial, sometimes you'll lose.

We had an insider trader case out in Kansas one time. It was something the Commission thought was open and shut and they had all kinds of evidence. It went to trial in Kansas. The trial team was debriefing me later and we got creamed. The defense lawyer stood up and he said, "Ladies and gentlemen of the jury, do you see all those people over there at the prosecution table, the government, they're all from New York or Washington, D.C., and they want to put one of our local Kansas citizens in jail," that kind of thing. The jury acquitted and it didn't happen. It's a risk you take when people go to trial.

I wanted to make the trial people understood that it shouldn't be career-ending that you lost a trial. You don't need to worry about that. It should be career-ending if you're afraid to go to battle because I can't afford to have a litigation team that is afraid to litigate or reluctant to litigate. There's a balance in there that you have to maintain. It's great to have a settlement if you get a good settlement, and not so great if it's a lousy settlement.

KD: Did you try to shift the balance towards going to court?

RB: Not so much going to court. Where I started was, I tried to make clear to the staff that settlements that might have been acceptable in the past, don't even think about bringing them to me if it's a slap on the wrist. If the settlement doesn't have teeth, you shouldn't have brought the case. You shouldn't have spent the public's money to do the investigation, convince the Commission that we should go to court and sue this person if you then come back and say… There have been too many examples where my clerks and I would read the proposed settlement or read the order and saying, we promise we'll never do this again, which was the ultimate formulation of injunctions. But sometimes then the defense part got very good of writing what it is you wouldn't do again. We will never again manipulate this stock in January of 1986, which means it's not an injunction against anything.

I wanted to make sure that the Commission staff, and I don't think the Enforcement staff was particularly reluctant, some reluctance. But there had been, over time, I thought, a complacency over the severity of penalties and what should be acceptable to warrant approval as a settlement.

I suppose the classic case where I made that point was the O'Hagan case that later went to the Supreme Court. In the early stage when it first came to me, I was taken by surprise. We had calendared this review of a case brought against a lawyer. The case was that this individual had embezzled out of client trust funds and used that to help finance a lifestyle that the staff chronicled, involved very expensive houses in multiple locations, and this individual was particularly fond of high-performance cars. The *Washington Post* had written about my Porsche that I drove to work every day, and I must confess I have always liked good cars, and he had very good taste, very expensive taste in cars, as they chronicled that.

The allegations were that he had embezzled out of the client trust funds and then when that was about to be discovered he needed a source of funds to repay that stolen money. So he was looking for somewhere else to steal more money to pay back the other stolen money. He went to the law firm, roamed around on a Saturday, found papers on people's desk about a tender offer that was about to happen, went out and bought options to profit from it, and they had him dead to rights.

The staff lawyer, to my surprise, says, "We have very good news. The defendant and counsel have agreed they want to settle. And they've agreed to return to disgorge all the profits from the insider trading, all the improper gains, save only for a sufficient amount to fund his lifestyle, his ongoing living expenses," maybe was the words we used.

So the poor staff attorney says, at the Commission table, "We need guidance in negotiating a settlement of what lifestyle would be sufficient in the Commission's view, to allow him to use stolen money to fund." The staff person didn't say that, but that's what he was asking. He agrees to give everything back, except he'll keep some of the stolen money to fund his lifestyle. What lifestyle does the Commission think is appropriate? And without thinking, talking, anything, I just said, "Simple, naked, homeless, and without wheels." The lavish homes had to go. The garages full of beautiful Italian sports cars had to go. The naked part, a pair of jeans would have been okay, but none of the wardrobes. It was something I hadn't planned, hadn't thought about and that question had not been written down in the memo from the staff to the commissioners before the meeting.

So it just hit me unexpected as, well we're going to settle. We acknowledge he's going to use stolen money to live on. How much should we leave him with? I thought that was a pretty stupid question. None is the right answer. You have stolen money. Give it back, every penny. I made it a little more colorful what lifestyle should we allow him to fund? Naked, homeless and without wheels, i.e., nothing.

KD: Colorful enough to stick. I always wondered where the wheels came from, so now I know.

RB: It was garages full of Ferraris, Lamborghinis, similar.

KD: Another tool, the Penny Stock Reform Act came in around that time, very close to when you started, I believe.

RB: I think that had been passed under Chairman Ruder. Penny stocks was a big focus for the Ruder Commission, not so for the Breeden Commission. Any time an investor is being defrauded, it's worth the Commission's attention, whether it's trading in a high cap stock or whether it's trading in a penny stock. I'm not a hundred percent sure. Maybe the Penny Stock Reform Bill passed after I became Chairman. Certainly the heavy work was all done by Chairman Ruder and his staff, and they deserve all the credit. Dave made that a big focus.

Again, as in situations I had, when you become Chairman you either have things that you're aware of when you come walking in the door or that come to light as something that is happening the market and then you see some area where the Commission can do a better job. So then you focus on it. You make it a priority.

Dave made it a huge priority to deal with penny stocks, which had always been around, but had become, there were bands of promoters who became more and more active. I think the SEC's Denver Regional Office did a really good job. There were a lot of mining stocks that were in the penny stock world. I can remember dealing with a lot of reverse mergers of Israeli companies into U.S. Shell companies, and manipulations, so it was an area of concern. The intellectual work to develop the response and to apply was really Dave Ruder's excellent work, and his Enforcement staff working with him.

For me, it then became, once the Commission shines a spotlight, whether it's insider trading or penny stocks, or market manipulation, or some particular area, if the crooks get out of hand and they're getting audacious, you need a bombing strike to come in and put things right. But then you can't always bomb the same location because then that leaves other areas unpoliced. The Commission is always resourced strapped and that's probably appropriate. It forces us to prioritize and think about where our efforts are needed the most. Unlike the Fed, the SEC doesn't print money. We can't just ooze across the landscape of America. We have to justify what the Commission spends and use it efficiently. Enforcement is very much part of that mix and it's by its nature opportunistic.

I can remember driving to work one day and I happened to have a testimony that day, I think it was a budget hearing. I happened to be, to appear on the Hill. And I'm driving to work. I didn't have a government car. I drove myself to work. I'm listening on the radio and they're describing that there are reports in the *Journal* of a possible run on the treasury and a possible attempt to corner a part of the treasury market, and they're putting an auction in treasury securities in the treasury market.

People think the treasury market cannot be manipulated. It's too big. But sometimes people have to fulfill orders for a particular instrument. You had things called off the run securities and that became a little submarket for a period of time. It could be relevant. If you could corner that little submarket then you could charge far above market levels because somebody had to deliver a certain strip that they had bought in auction.

Anyway, I hear on the radio going to work that the *Journal* has run this story about the treasury market possibly being signs of manipulation. I'm an hour away from walking into Congress and sitting down on television. I remember the second the car pulled into the garage, get me McLucas, tell Bill to get down here. I think Rick Ketchum had probably left by then.

It was to quickly learn whatever I could because I knew I was going to get asked about it. So I get asked about it, and I said, "We read the same story, Senator, and I don't know yet what I will know, and I'll keep you briefed and informed as we investigate what's going on. If there is wrongdoing we're certainly going to bring it to light and deal with it."

Well, you can't imagine something that would be more consequence to more Americans. Almost everybody's mortgage was linked to the price of treasuries or credit cards, or business loans. So if somebody is manipulating up the price of treasuries by 50 basis points then everybody in the country pays 50 basis points more on trillions of dollars of debt than they should based on a crime. It certainly was something we thought was significant.

When putting together the agency's budget nine months previously, I didn't know that was going to happen. We didn't plan for that. You just have troops that are available, and you have to reposition them sometimes, and redirect, and respond to what the market throws in your face. Some of it can be consciously planned, as they did with penny stocks of saying, we have this problem and it's out of the Vancouver Exchange, and we worked with the Canadians to try and get the Vancouver people to crank down on what they were allowing to happen. Then people taking securities traded in Vancouver and marketing them in Denver and we had out Denver office working on it.

Sometimes you see a problem and you plan it out. Other times you have the Salomon Brothers bond trading scandal hits you in the face.

KD: I was going to ask you about that. It involved Fannie Mae?

RB: No. The Salomon Brothers scandal at its heart, Salomon at that time was the largest trading firm in U.S. government securities. They were successful, they were powerful, and they didn't do equities. That was really the heart and soul of Salomon. They did commodities. They bought a firm called Phibro and they tried to expand. Salomon was one of the biggest firms at the time and it was very much concentrated in government securities.

Treasury decided at a point in time that they were getting nervous about the concentration that Salomon represented in the market. Treasury has responsibilities for auctioning the debt. The Fed actually conducts the auction, but Treasury's Office of Public Debt has to fund the United States government.

So Treasury ends up putting out a rule that says you cannot purchase more than, I think it was 35 percent of any particular auction and that would prevent any off the run issues from being cornered because whenever anything was being auctioned one person couldn't buy more than 35 percent. Typically in Treasury auctions they're over-subscribed. They use the Dutch auction model, so your orders get filled from lowest price to the government to highest price until they've sold everything they want to sell.

There's a risk that if the Treasury is selling $10 billion of two-year notes and you bid 2 percent and $20 billion worth of bids are put in at 2 percent then all the bids are 2 percent, if the auction reaches 2 percent all the bids will be accepted but prorated. You had hoped to buy two billion in securities and you end up getting $300 million because a lot of other people bid the same price.

So Treasury puts out a rule intending to make it hard to manipulate the Treasury market that says you can't buy more than 35 percent. Well there was guy at Salomon running their trading desk, a guy named Moser, and his attitude was, "Fine, we'll bid for 150 percent. We'll bid way more than 35 percent so that after we're prorated we get our 35 percent." He seemed to think that Salomon had a God-given right to get the maximum allocation. Treasury in response said, no, we can't have that. What we meant to say is you can't bid for more than 35 percent. Apparently, Moser was quite apoplectic about that and said, "Just watch me."

Salomon didn't bid for more than 35 percent, but Moser would get other people to put bids in, in their names, but really for his account. He would say, "If you succeed in the auction, it doesn't matter what price you pay, don't worry, I'll take you out. You won't lose any money." Salomon was the biggest firm in that area. So if you didn't cooperate with Salomon you would see a lot less trading volume as a primary dealer. They had a lot of market power and they were then violating Treasury's rule by conspiracy by going to other firms and saying, this is really a bid for us, but put it in your name so that they won't catch us.

On one occasion it came to light, and there was a big cry and Treasury was angry at regulators. Everyone looked and there was a response by the firm, okay, we're sorry, we won't let it happen again. But they had left Moser on the desk in charge of it. They don't put a lawyer, compliance officer at his elbow to make sure, to listen to who he's calling and stop. They just promised it wouldn't happen again. And the guy kept on doing it. As far as he was concerned it was an outrage and immoral for the Treasury to try and limit his ability to bid for these securities. This was an auction. After all, how can you do this? So he does it 35 more times, at which point it comes to light.

One lesson for fraudsters of anything in all stripes is it eventually comes to light. A lot of times people will say where was the SEC? The SEC generally doesn't do real time enforcement. You can't be everywhere. It's after the fact, but you do respond.

KD: Is this a case you wanted to respond?

RB: This one was very important because it goes to the whole integrity of the government bond market. Congress had been involved. We had this attempt at manipulation or argued alleged attempted manipulation. Then we find Salomon is bidding for all these securities, so it was really serious stuff. White hot news in the press, the Congress, everybody is focused on this.

I don't remember all the details, but one of the senior Salomon people, most senior corporate officers, was in my office and in my opinion, lied to my face and unfortunately did the same thing at the Treasury and at the Fed. Secretary Brady was deeply outraged and was determined that Salomon should be barred from any future Treasury auctions. Kick them out. I was horrified at that because I thought Salomon would promptly collapse. And the suggestion we were going to do that caused people stopped rolling over their repos with Salomon. Most securities firms are financed on a fairly narrow basis. Salomon had maybe a thousand sources of liquidity and overnight they start drying up because people are saying, they're reading, they might be kicked out.

Jerry Corrigan at the New York Fed was a terrific, smart, capable person. Crossing Jerry was not a good idea. Both the Treasury and the Fed felt they had been lied to. I thought I had been lied to more by sins of omission than falsehoods, but nonetheless if you have already discovered that one of your guys has manipulated, has violated the rules several dozen times and you're looking eyeball to eyeball to a senior regulator, and you say everything is fine, and you don't bother to mention it, in my book that was a lie, as with the Treasury and the Fed.

In a fairly short period of time, Salomon became a huge risk of collapse. We had Drexel Burnham and staved off disaster. We haven't really talked about Drexel Burnham, but it was really a pivotal situation of possible collapse of what was then one of the two largest securities firms. And now here comes Salomon Brothers.

Happily, Warren Buffett had bought about $750 million worth of Salomon preferred, which in 1990 was a lot more money than it seems like today. We were able to call Warren and offer him the position of Chairman of Salomon Brothers, which he accepted. He was in my office the next morning. He took out a piece of paper, pulled his pen out, wrote his home telephone number on it and handed it to me. And he said, "Here's my number. Call it any time day or night." He said, "If anybody in Salomon hesitates for more than 30 seconds in giving your staff anything they want you call that number and they will be a former employee of Salomon. We will cooperate completely and totally."

The defense bar sometimes uses the phrase, "we're going to cooperate, we promise to cooperate, the defendants promise to cooperate" and they seem to forget about that promise when they start the cooperation. Not Warren Buffett. I knew he would be exactly as he said, that he had no tolerance whatsoever for anybody breaking the law, wanted to clean Salomon up. He did not see a reason for the thousands of employees there to lose their jobs. He thought it was worth saving, obviously in his interest because of his investment, but I think much more broadly, fundamentally he didn't think that an entire firm should be wrecked because of bad judgment among the top officers.

As it later turned out, he came in, he brought in a new CEO and we were able to restructure Salomon and got it stabilized. We had to decide how much to fine them and that was nowhere in the book. The U.S. Code says for violation you can be fined up to so much per day or so much for violation. Well you're manipulating the Treasury market. It can be any number you want and there's no guidance of what number is enough. If we fined them something that was deemed to the public eye to be a slap on the wrist then John Dingle and others would have been out there demanding that they be kicked out as a primary dealer and other things. The firm would die. If we fine them too much, the market might take that as a symbol that the U.S. government wanted them to die and they might die.

So trying to find a middle ground penalty that seemed stiff enough to deter senior managers at other firms should they contemplate systematic violation of the law ended up settling on a number, I think was $240 million, which represented their last two quarters of profits, a hundred percent in the last two quarters, six months' worth of earnings. Which I thought was enough to be noticed, and painful, but shouldn't be fatal. And it worked. The company was later acquired. Buffett did a wonderful job straightening it up, cleaning it up. His credibility was unmatched. The rescue part worked very well.

We then later in our Enforcement actions had to deal with the senior officers. The top four officers in the firm, the CEO, the President, the General Counsel and the Vice Chairman, all admitted that they knew what Moser was doing. But when they talked to each other they each thought the other was going to do something to control it and stop it. We had four people going like this, so we barred all four of them for life, from the securities industry. I think maybe one of them was for less than life. It was for ten years or something. But it was very stiff penalties.

If you're all involved and you all admit you knew and somehow it didn't happen, we're not going to do nothing because we're not sure which of the four of you—you collectively were in charge. You knew that there was serious wrongdoing going on. It was concealed from the government. You were putting at risk the entire financing system of the United States government. We're not going to tolerate that. And while we don't want all the employees to lose their jobs and we don't want the company to go out of existence for the benefit of its investors and others, we're not going to tolerate this. So it was very stiff penalty. Talking of enforcement, throughout my tenure as Chairman, I wanted to catch the crooks and beat them up, just as plain as that.

KD: Were there any other landmark cases that you think sent a strong signal?

RB: There were probably lots. We had the Mike Milken settlement early in my time. I didn't bring that case. I just had to settle.

KD: You had Charles Keating, too.

RB: I can't remember that I had. Maybe. His main violations were over in the banking side of life. There were certainly a number. But the common theme that I tried to reintroduce into the culture of the agency was a little more of the, today you'd describe it Navy SEALS or Green Berets. The Enforcement Division of the SEC is created and maintained at tremendous public expense and it is not there to just do something that's going to become wallpaper on somebody's den or their bathroom—their injunctions. The sanctions need to be meaningful and hurt.

So I went to Congress to get legislation, successfully, to beef up tremendously the penalties that we could impose, because at that time we had disgorgement, but we couldn't fine somebody. I wanted the authority to have cease and desist orders. I wanted authority to impose fines, not tied to—disgorgement is calculated to how much did the customer lose and you benefit.

In a case like the Salomon Brothers the world might lose trillions. You might arguably only benefit by millions. I didn't want to be limited to millions, I wanted to be able to have the punishment fit the crimes, so we needed authority to fine people. We needed cease and desist authority. I wanted the ability, which Congress gave us, but I don't think has been used enough, to bar officers and directors from serving in public companies. We had the ability to bar the managers at Salomon Brothers from the securities industry for life, but we couldn't bar the CEO or members of the board of a public company, of Enron, who committed massive fraud. I thought the Commission should have that authority. In general, we went through and we gave the Commission statutory authority to impose much tougher fines and sanctions.

KD: Was this a major piece of legislation or was it smaller riders on other legislation?

RB: It was a standalone bill. It's hanging on my wall actually, at home.

KD: Do you know the name of it?

RB: The Enforcement Remedies Act. It has a fancier name than that. I should add, not the real bill. The real bill is in the National Archives. When the President signs them, he signs multiple copies, and I have one with the pen that he signed. I have Market Reform, Enforcement Remedies, FIRREA, on the wall.

KD: The Salomon Brothers case, there was a joint study, Treasury, Fed, SEC, that got ginned up in '92. Do you remember that and was that a result of what happened?

RB: I can't remember the origins of the study, whether it came directly out of Salomon or not, or whether it just came out of time to oversee, to update how government securities are regulated. It's a shared responsibility between Treasury and the SEC, mostly, oversight of people who were dealers in government bonds.

So we did a study. I should say the staff did a study, did a terrific job. I was involved in hearing of their progress as they went along, but it was mostly a staff study. One of the recommendations that Treasury was in favor of and that I strongly was in favor of was that Fannie Mae and Freddie Mac should have to—that the exemptions from SEC registration for securities of Fannie and Freddie should be repealed.

Members of my staff will remember Frank Raines, who was then CEO of Fannie Mae, which thought of itself as an independent country and was the owner of by far the most powerful lobbying team ever assembled on this planet.

Mr. Raines came in to tell me how silly and stupid this was and that we really should not seek to study—having said that these exemptions should be repealed we were dutifully sending legislation to the Hill to accomplish that. I remember Mr. Raines telling me that that wouldn't get to first base, why do this, and what a waste of time and effort this was going to be, and we're going to beat your head in. I said, "You may, but we'll see who has the last laugh. This is something that needs to be done. I acknowledge you have far more lobbying ability than we do, and resources. Maybe we'll lose, but I owe the Congress our best judgment of what the right answer is." Not getting to first base, we didn't get out of the dugout before Fannie Mae had us hogtied and chopped into little pieces.

The legislation didn't go anywhere. And of course Fannie Mae and Freddie Mac later blew up in the 2008 era with sad results. But we thought, not that registration would have been a guarantee against it, but that the exemption from registration created the implication that these were implicitly backed by the U.S. government.

I was working in the White House in 1982 when Penn Square Bank happened and the first instance of too big to fail. The controversies that had then swirled and have continued with us to this day of what happens when institutions that are too big to fail actually are going to fail, and how is it handled? Penn Square Bank was the Oklahoma bank that was in turn financed by Continental Illinois, and it was Continental Illinois that bank regulators thought was too big to fail.

So Fannie and Freddie, any time you get this implicit aura of protection and there are troubles then you have an urge on the part of the Fed to, as the chief bailout architects—I think Chrysler was the last time the U.S. Congress actually voted on a bailout—just goes off and does it.

Nelson Bunker Hunt, they were cornering the silver market in the early ‘80s and they did Long Term Capital Management. They had done many interventions, including in 2008. Congress responded to that, but we attempted to deal with Freddie Mac and Fannie Mae because we thought that those exemptions were not appropriate. They did involve risk and investors should have that risk disclosed.

KD: GSE is like that aura of the government maybe being back there behind them.

RB: Of course.

KD: Another instance of you taking on one of these powerful adversaries is your time talking to the CFTC and having jurisdictional-type disputes. Set the stage on that one and how that played out.

RB: It’s really a short story. The big fight had come under John Shad and Phil Johnson. John Shad was Chairman of the SEC and Johnson was at CFTC, and they had tussled over jurisdiction early, right after the stock index futures were born. They ended up coming to something that was called the Shad-Johnson Accord that was a peace treaty, a cease fire agreement between the Israelis and the Palestinians, and it lasted for a number of years.

The Brady Commission concluded in their review of 1987 that one of the contributing factors to the meltdown in ‘87 was problems in cross-margining between the cash market and the futures market. They were on one set of rules, the equities were on a different, they didn’t connect. You had people doing program trading to exploit gaps. The Brady Commission recommended that stock index futures should be moved. Regulations should be moved over to the SEC so that you have one set of rules, and particularly critically that you had margining rules that were not disconnects to maintain liquidity.

The Treasury, early on in my tenure, I think they had been working on it before I got there, had a bill to implement many of the Brady Commission recommendations including the stock index futures. I remember asking the Treasury guys when they said, we want you to support this. It was presented to me as the President has decided this. The Secretary has got this bill, the President has approved it, the Cabinet has approved it. One of the provisions calls for moving regulation from the CFTC to the SEC. You need to support that, when asked. I said, okay. This is administration policy. It was presented as administration policy. We understand you’re an independent agency, but we expect support. Fine. I’m a team player. I’m happy to support.

I remember asking the gentleman I was talking to, it wasn’t Secretary Brady, what country is Chairman Graham going to be made an ambassador to? Because the wife of Senator Phil Graham was then Chairman of the CFTC. I was trying to put it in a light way to say, he’s the ranking Republican on the Senate Banking Committee that has to approve this bill. His wife is the sitting Chairman of the CFTC, and you’re stripping turf away from her and transferring it into the SEC. You can’t be serious. They said essentially that’s above your pay grade. The Senator and the Secretary work together all the time and I’m quite sure the Secretary has figured that out. I said, I sure hope he has because otherwise this would be going over the top in World War I and into the face of all the machine guns, and I don't have any shields here.

KD: It kind of looks like that's what happened.

RB: That is exactly what happened, and it was silly from the beginning, just a silly effort. It was an academician's concern about the untidiness of the system and gaps. And the better answer was we'll work together. That would have been fine. People have long said maybe the CFTC and the SEC, the entire agencies should be merged. That would make sense. But even that, there's deep distrust between the Chicago markets and the New York markets. So fine, what's the harm, as long as the functioning of the markets don't get disturbed. My Chief of Staff was an alumnus of the CFTC. I knew that they had really good people. She was a walking example of it.

So, yes, I'll support it in theory. Stock index futures should never have been moved over to the futures markets and we shouldn't have the exclusivity clause of the Commodities Exchange Act and all these other things. The Shad-Johnson Accord, in my feeling, was the better way to go. We had 1987, here are the things that didn't work. Now how do we put a task force together between the two agencies and get it worked out. Treasury's approach was we need a steamroller that will forcibly transfer jurisdiction.

KD: How much of your time did that soak up?

RB: Every minute that I spent on it was wasted. You have only a certain amount of time and it's sad to waste it on things that don't need to be. As we mentioned earlier I did think that changing the exclusivity clause of the Commodities Exchange Act was worth a fight and that threatened the vitality of all the American markets that, as instruments were developed that contained elements of a cash market and elements of the futures market, or hybrid instruments. You didn't want to force all of them.

The reality was that if they didn't think that the liquidity was good enough and they didn't want to trade them in Chicago then they had to go to London or somewhere offshore. I was a big believer my whole time in government that the American government doesn't work for our firms, but it is in our national interest to have our firms be economically successful and the government should never do anything, in my opinion, that simply drives people offshore. If it's a legitimate activity. I wouldn't mind driving drug dealing offshore.

I did think the Commodities Exchange Act needed to be fixed. We didn't do it legislatively, but we ended up fixing it through market creativity. The rest of the stock index futures—I think it involved 12 positions at the CFTC, as I recall. I wasn't going to personally live or die over 12 positions. It just really became symbolic and it became disproportionate to the actual stakes.

KD: Let's talk about something that is important to the actual stakes, which is your relationship with the staff. We've gone through the history on some of the things that have happened, but we haven't talked about what you did or how you changed the culture in the SEC in the time you were there as it relates to the staff in particular.

RB: Thank you for asking about that. To this day it remains one of the great joys of my life, the privilege I had of leading the men and women of the SEC. I could sit here and name person after person in the General Counsel's office. We haven't talked about the General Counsel's office, Chief Economist's office, Chief Accountant's office, and every corner of the Commission, talented people. Not every last one of them. SEC does have duds along with every other organization, but not many.

I thought the leadership was outstanding and it was just a great privilege to lead that team. I felt that my senior staff could have led any agency in government. They were such talented people. We've talked about them, Mary Ann Smyth and Bill McLucas, who I appointed as Enforcement Director. He was only my second appointment after Michael Mann, but he still was a good appointment. Rick Ketchum, Linda Quinn. We went to Argentina, we went to China, we went all over the world helping countries establish markets and make markets work better. They just were a group of people with, and this is the most senior staff who I worked with every day, those people had just awesome talents and were tremendous.

KD: What do you do to bring out those talents?

RB: Not just at that level. Then you have a much broader body of employees. We had 3,800 employees, maybe at that time. As Chairman you want to try and reach and connect. It's difficult to work with every single, if you have 4,000 people, to work with each of them personally. But over the course of four years I certainly came in contact with huge numbers of them on different projects. I wanted to energize the Commission when I got there.

I had seen from the White House, Treasury in the room, the Fed in the room, I had seen where the decisions were made about the United States and its role in the world, and what we wanted Japan to do, or what we wanted— I watched the President of the United States make policy. The SEC didn't come up very often in those discussions. We were doing a great job worrying about Penny Stock fraud and the Vancouver Stock Exchange, but it wasn't necessarily at the table in the discussions of what was going to replace Glass-Steagall and other big-ticket items.

I thought the SEC needed to be in the heart of the discussions because they were the great issues of the future of the capital markets and I acknowledge the importance of the Fed and the importance of its role. In my view, the SEC and the Fed are the two most significant agencies, not to criticize or disrespect any other agency. They all have talented people and important missions. The Fed in banking, and the SEC in securities have a critical role, but it wasn't playing that. I don't know all the reasons. I just knew from my ability to watch that it didn't seem to be. It had a somewhat inward focus.

This is a vulnerability in any agency, but certainly true of the SEC along with others. Sometimes every year you can revise and revisit your latest interpretations of some microscopic issue. Market Reg had this problem big time. That's why I put my rule in, which I tried to say jokingly, but I was very serious, don't dare send me another thing with more than 75 notes because that's the illusion of precision. You're down so far in the weeds, but you're not conveying.

And if the Chairman is going to sign the letter, the Chairman is not sending out a letter with 140 footnotes. He's going to talk about the big picture. You can send that out, but if you want me to sign it, it needs to be more appropriately focused on the major issues of the day, whether it's Fannie Mae and Freddie Mac, or whether it's the integrity of the Treasury market, or whether it's Glass-Steagall, or whether it's why aren't foreign firms using the American capital markets and are we losing ground to London or Frankfurt? These are the things SEC should be worried about. These are not things that are beneath their worth, while they're reinterpreting Rule 10B 7 16 cap "a" little three I's.

I thought there were a number of things that needed to be done. One of the measures, one of the really flashing red light warning systems, I think we had 12 or 13 percent attrition per year when I walked in the door, and it was under 3 percent when I left, so I'm very proud of that. Agencies, if they've gotten put out to pasture or off on a sideline people know it. They can feel it, and it's hard to give the same effort. If you're just re-plowing the same field eventually that can get a little dull.

KD: It sounds like there's focus on mission rather than on routine.

RB: I wanted to be sure, and from the first meeting I had when I was being briefed for confirmation through to the last day I was at the Commission, if I saw a big issue or thought there was a big issue in the world, I thought this team of people had the skills better than almost any agency in government to develop solutions. So you needed to challenge them with that.

One avenue for it was our congressional testimony. I testified 55 times before Congress during my tenure. It was always painful. It was like having your wisdom teeth extracted. I thought congressional testimony was really important. I worked a lot with Congress. I knew the members I was going to be testifying in front of. I cared about whether we sounded like a bunch of bureaucratic gobbledygook or whether we could lay out a persuasive articulation in what we thought was good public policy.

As a result I would edit these testimonies, personally, after the staff gave theirs, and my editing is often slow. I could always find a way to improve it. We had a couple of times when we were still working on the testimony the morning we were going to give the testimony, which was horrifying to Mary Ann Smyth, and Bill McLucas, or Linda Quinn, or whoever was the relevant agency.

But, we ended up with a great product. We articulated, I think, our public policy views, the importance of functional regulation. If banks were going to get into the securities market, they shouldn't do it with historic cost accounting and they shouldn't do it with secrecy, and they shouldn't be able to hide their losses. It should be done the same way that a securities firm has to do it. Similarly if the securities firm was going to into banking, fine, that needed to be under the banking world's rules, not ours.

There were a lot of public issues, how you handled mutual funds. In those 55 times some of them were budget appearances that I recall were relatively routine and some of them were pretty dramatic, of things like the government bond scandals or others.

But it was important to me, I thought getting the Commission back at to the table of public policy in Washington, and reminding the House and the Senate, and all the other agencies what a tremendous contribution the SEC had to make, the tremendous intellectual power that was under that roof every day, and getting them engaged, I think that helped energize people. Similarly, our international efforts. People saw we were reshaping the world.

The Berlin Wall had just come down. The Cold War is ending. Things that people at the SEC had lived with, when I was in the third grade I had to hide under the, we did air raid drills, getting under the desk in California for the risk of nuclear war. All that suddenly changed. The world was different. What's the new world going to look like? My view was that he SEC senior staff were people, at least in our corner of the world, the financial markets should be the ones on the front lines helping develop that, and we did.

So whether it was the international effort, whether it was revitalizing the Corp Fin rules and proxy standards, whether it was coming up with the rules of the game for the next 50 years of the Investment Company Act—I actually commissioned a similar study in Market Reg, which was not nearly as successful.

KD: Market 2000?

RB: Market 2000, but only because it's much more complicated. It took a lot more time to work its way through, but at least I got the effort started.

I thought energizing the senior people and then all the way down the line in intellectual challenges, that so-so wasn't good enough. If we were giving testimony, it needed to be the very best testimony we could give. If we were filing a brief in court, the SEC always had Jake Stillman and others, and Paul Gonson, we always tried to write the very brief that could be written. Across the board in the Commission, the *sine qua non* needed to be excellence. I used to say to people and believe, that you can't stand around congratulating yourself that you have the best staff in government and then do a mediocre job, on anything. The country deserves your best and let's give it to them.

I did try to get the computers and get decent office space. I was successful in slipping a rider into an appropriation bill that took the SEC out from out under the GSA, so we could lease our own buildings, put people in good offices instead of—the GSA seems to specialize in renting buildings that no one else in the world wants to occupy. And how could you expect to hold on? Your enemy is people in the outside market that know how good the SEC staff is and want to pirate them.

If you have somebody, whether it's a Linda Quinn or any of the stars, and I don't mean just division directors, right down through the ranks, we were losing 12, 13 percent a year. That meant we were turning over the entire commission in six years. Some of our cases lasted six years. We had litigation teams, some big cases, would go through two or three groups of people. This is a problem in the Justice Department and U.S. Attorneys' offices, too.

I wanted to get them pay increases. It was a shock to me how badly paid the SEC senior staff were. And people accepted that the Fed, the FDIC, and the Comptroller of The Currency and the credit unions could pay anything they wanted. They were financed by fees. Let them pay whatever they want. We competed with them for talent as well as with the private sector. We made a profit every year. Why couldn't I match their salaries? That was a big fight. I got it through the Senate. I got one vote shy of getting it through the House to get out from under GS pay standards. Lost it, but hopefully we won the war even though we lost the battle.

I got the Office of Personnel Management to give us dozens of new senior executive staff provisions. We got new bonus pools. We got things that I was then able to help, at least, and to make this incredibly important national asset, these people, recognized. To say we're not just saying you're important, but then we want to treat you in a shabby way. Let's give you a good office and a great beeper, and a bonus at the end of the year, and a lot of energy. And of course the main thing that will hold good people is the work they do and feeling that it's important.

It's a circle of either self-reinforcing or self-destructive things that you have to try and put together to slow the attrition, get the pride back, get the hustle back in the step and make sure that people knew we're not just going through the motions, we're not just papering the walls. We're doing stuff that really counts. And I think we accomplished that

KD: How about the Commission itself, the commissioners? You mentioned yesterday how it was clear that you were going to get commissioners that could work with you. How did you work with them? How did you run your meetings? What were the ins and outs of that?

RB: That's a subject as old as the Commission itself. It's hard. You have a choice. The Office of Thrift Supervision or the Comptroller of the Currency, or bureaus within the Fed, within the Treasury, they have one person. So if they're going to impose a sanction or if they're going to change the rules, it's just one person's judgment.

With the Fed and the SEC, and the CFTC, Congress made a judgment that the issues are big enough to merit a collective judgment and a bipartisanship, so no more than three commissioners from any one political party, though that has certainly not prevented the growth of partisanship, the horrible partisanship we now have in every aspect of life from intruding into the Commission. But it wasn't there when I privileged to serve, and I did my best to try and make sure it didn't appear.

You have a judgment, alright you'll have a board of five. One of those is a full-time job, the Chairman. And under Harry Truman's reorganization order in 1950, the SEC Chairman is a true CEO. The staff all reports to the Chairman. Then each commissioner has staff and they have an equal vote on regulations and on enforcement decisions, and they have a tremendous contribution they can make intellectually, and do make, regularly. And there have been some terrific commissioners who never became chairmen, but who have contributed mightily over the years to the Commission.

But, you can also have people who are frustrated. If they see all the errors and mistakes they think a chairman is making, that little voice in the back of their head that says I would look good sitting behind that chair with a seal that says "Chairman" and I could do this better. I'm not talking about just the commissioners in my time, I'm talking about since 1934.

You have times when people get along pretty well, personally, good chemistry, and you have times when they don't. The Ruder Commission, I think was a time of tremendous dysfunction. I was fortunate, for the most part our commissioners liked one another and were able to get along personally.

KD: What about philosophically, did you have serious divisions in their outlook on regulation?

RB: I think we had one commissioner who had a different view of life and the role of the Commission. The rest of us, I think, the other four, although the four changed over the years as people came in and went out, were generally philosophically consistent. And we had some great contributions. Phil Lochner was somebody I had practiced law with in New York, and had gone on to be corporate secretary at Time Warner and a significant player in the corporate world. I wanted somebody who came from an issuer and brought the issuer's perspective to the Commission table.

We had Carter Beese who was, again, somebody I knew and had identified as a tremendous individual with a very broad network in Wall Street, had been at Alex Brown. So he was not a New York Wall Street guy, but he had a great feel for the trading markets in a way that could balance out. In some divisions, Market Reg, there wasn't anybody who had been in private life in the senior level for at least ten, maybe 20 years. A lot of things change. So Carter could bring a perspective on, what's an academic worry, but not a real big deal, and what's a real big deal, in case you didn't notice it kind of thing. He was a terrific commissioner from the Market Reg knowledge.

More broadly than that, I didn't expect people to be just pigeonholed, but any good board has people with different backgrounds. Rick Roberts was terrific. He had tremendous knowledge and lively interest in municipal securities and the Municipal Securities Rulemaking Board. And I must confess that was well outside my wheelhouse of expertise and I wanted to keep it that way. No one person has time to deal with everything.

It was terrific to be able to, with Phil, with Carter, with Rick to say, alright, can you lead our efforts. Whenever there is a meeting going on in municipal securities rulemaking and the Commission needs to be represented. I'm not going. You're going to go as my representative. Please brief me so I can make sure the staff is connected to you and supports you, and everything, but you take the lead on that. And we did that as often as possible.

There are times where you think somebody is leaking something or talking out of school or the inevitable friction happens. But for the most part I thought it was terrific. And I think each of them shared with me, with possibly one exception, the joy of walking into the building every day and knowing the people you were going to work with, and the fascinating issues you were going to confront. Every single day we're sitting there at the intersection of markets, technology, communications, data processing, and the intersection of people figuring out how to finance the Planet Earth. And we just added 50 percent to the population of people using market economies or doubled it. It was an exciting time.

The international thing, this was something Mary Shapiro was interested in, the international effort and the international bodies. We worked hard to get foreign companies to realize that coming to the U.S. market was something that made a great deal of sense for them. The Mexican government was going through a modernizing, embracing private sector markets and so on, and they wanted to privatize the telephone company Telmex. I went down with a whole team of people, including Mary, but also Linda Quinn, Michael, Mary Ann Smyth and Barbara Greene, who replaced, when I lost Mary Ann to Investment Management, Barbara Greene came in and took over as Chief of Staff and did a wonderful job. Paul Atkins, who later became a commissioner, was one of my law clerks. I recruited him from Washington. Dick Walker, I recruited in from, Cadwalader was his firm, to run the New York Office, who later became General Counsel and Enforcement Director.

We had all these people, great talent, and we were trying to say to the world, come here. We can't finance every project and you're free to use your local banks. But for major companies with huge capital needs, here's the most liquid market in the world, the most efficient market in the world and we're open to everyone. I mentioned the 144A, I used to say to people, try it you might like it. You've heard all these horrible stories about being afraid of the SEC.

I was at the Davos World Economic Forum one time. I was walking down the hall and this gentleman stops me, and he says, "Chairman Breeden." I had never seen him before in my life. And he comes over and he says, "Nice to meet you." He told me his name. He was CEO of Caracas Power and Light. This is well before the current problems in Venezuela. He said, "I just wanted to thank you." I said, "For what? You're welcome. What did I do?" He said, "We recently did a big financing in the U.S." I thought he was about to thank me for the capital they raised. And he said, "You really helped me clean up my company. When we got ready to do our listing in New York, I got all my senior managers together. We closed the door and said, we have some corporate governance practices that have grown up historically that none of us are proud of." He was talking about bribery and other things. He said, "None of us are proud of it and it's not the way we should run this company. Now we're going to do a listing in New York. And Chairman Breeden from the SEC will come get you if this stuff doesn't stop." He said, "I told them all you were my bogeyman. You were going to put everybody in jail in New York if you didn't clean up the company." He said, "It worked beautifully. Our company today has gotten out of some very bad habits and it's running better."

That happened over and over again. Probably the crowning achievement was getting Daimler Benz, the first German listing, and getting them to come here. After years, throughout my chairmanship of having the German Ambassador, the German Finance Minister, the German Chancellor talk to the President of the United States all about German companies arguing that they should be able to raise primary capital, sell securities to retired school teachers in Peoria, Illinois or Joplin, Missouri using German accounting rules, which were the worst in the world, least transparent. I kept saying, no, our markets are open to you, we'd love to have you come raise capital here. Toyota is here, Volvo is here, Ford is here, GM is here, and we'd love to have Volkswagen or Mercedes, but you have to do it under the same rules everyone does, which is you can use your local accounting, but you have to give a bridge, the Rosetta Stone, you have to give reconciliation to U.S. GAAP.

The Germans, for domestic reasons, were adamant that they would not do that. Germany had at that time a very high 50 or 60 percent corporate tax rate. So German accounting, which was not transparent, allowed them to manage earnings and accumulate hidden reserves, and declare relatively low profits on which they would pay a very high tax. They wanted to keep doing that and they were embarrassed that if they published a prospectus in the U.S. saying that they earned $10 billion, but they filed a tax return in Germany that said they earned $500 million that there could be some consequences, and the tax authorities would be smart enough to go read their filings. I said, I can't solve that problem for you by letting you hide what you're making.

Everybody, it doesn't matter what country you're from, what business you're in, you have to comply with the disclosure rules. We're a transparent market. And they fought and fought, and they argued and argued.

Finally after George Bush was defeated, in Davos, a senior partner of Goldman Sachs came up to me and said that the CFO of Daimler Benz would like to have breakfast or dinner with me and talk about a listing. They want to come and do a U.S. listing there. They've committed to it. I said to him, "We just had an election. My guy lost. I'm leaving. Maybe the next Chairman will give in." And he said, "No, they want to do it under you. They want the gold standard, the Good Housekeeping seal and they want to do it the right way, even if later on somebody lets people do it the bad way.

KD: You just walked up to the topic that I wanted to hit, which was the decision to leave.

RB: Let me finish Daimler Benz. We then had one meeting scheduled, which turned out to be the day that a bomb went off in the World Trade Center where our offices were, so that meeting got postponed. Then we did another one. In the end, after all the years of arguing and fighting, we sat down. It was the Daimler CFO, the head of the outside accounting firm and the inside accountants, myself and Linda Quinn, and I think Jim Doty, Michael Mann, a fairly small team. We met them in New York. And I said, "Okay, within the realm of you've got to reconcile to U.S. GAAP, what can we do? What are your problems?" They had spent a year studying what the problems were in listing.

The first issue they had was how they would account for warranties on their cars. German accounting had a certain way they accounted for warranties. The U.S. rule was different. There was some reason why accommodating them, they could do it over a long period of time, but doing it with historic data they hadn't kept, they couldn't do it. No problem, we can solve that. Then there was something on German social security, their retirement obligations. In the course of three or four hours we were done. Daimler came and then rest of the German industry followed.

But over and over again it was a case of trying to show people that the SEC was not at all close minded. We were not against foreign firms. In fact, we welcomed it and supported them, but recognizing that different countries have different retirement systems and other facilities that you have to make accommodations to, without sacrificing your principles of full disclosure. I think when we ended up doing it, it was kind of shocking. These are not the exact numbers, but Daimler reported a loss of 100 million Euros in Germany and a two and a half billion dollar profit under U.S. GAAP. But it was a material difference and fine. Investors got both, and you could believe the German accounting. The German accounting, 40 percent of their balance sheet, income statement was in a one line item, provisions, with no further discussion. We helped shine the light of transparency there as I hope the SEC will always do.

KD: Was it just a matter of George Bush being defeated, is that when you made the decision to step down?

RB: Sure. You don't overlook presidential elections. Obviously President Clinton would want his own person. And I had been there for four years. I was the fourth youngest Chairman in the history of the agency. I became Chairman at the age of 39. By that point I was the sixth longest serving Chairman. We had done 1,208 enforcement actions. That's a lot of memos to read, a lot of thinking and working. I had gone all over the world. I had worked seven days a week, 16 hours a day for four years, and I was tired. Invigorated, but nonetheless, tired.

Even had Bush been reelected I probably would have decided four years, maybe I would have stayed another year, but it was getting time. And I think it's good for the Commission, too. Each Chairman comes in with their interests and their passions, but also their blinders. I think four years, there's a reason we have a presidential election every four years. It's a good time to reassess. It's long enough to get things done, but hopefully short enough to prevent you from being stale and having the Commission get overly focused on your priorities, but maybe somebody else would come in with a different agenda. It didn't change much for me because I would have gone back to private life.

There are lots of people who have become Chairman in their mid or late '60s where you're ready to retire. Your business career is done and now you're going to do public service. Maybe then you would stay. Both John Shad and Arthur Levitt stayed seven years. I can't imagine that. God bless both of them.

The election might have by a few months changed my timing. As it was, the incoming Counsel of the President for President Clinton was a former partner at the law firm I had worked at, and I knew well. He called me up a couple of months into things and said, "Richard, everybody is comfortable with you. John Dingell says you're great. Chris Dodd says you're great. We haven't picked anyone yet. Please don't go. We don't want an empty chair. We're all comfortable with you." And this was after we bounced one of their potential Cabinet nominees because of some securities trading issues he had. They couldn't have been nicer, and I was perfectly happy being Bill Clinton's Chairman. From the standpoint of an independent agency, it's not a big change because you're not going to meetings over in the White House. So it worked out well.

I agreed to stay a little longer. I had young kids, so for me, my window was between end of May and September that I had to have the kids be in school, and I was not planning to stay in Washington. I wanted to go back to New York. So I ended up leaving in early June and getting my kids back to be ready to enroll in school, in September.

The people in the Clinton White House were very nice. They were classy to deal with.

KD: Anything else we should talk about that we've missed?

RB: We've hardly scratched the surface.

KD: Talking about fours, we've talked for four hours and I think you've done a great job. I really appreciate your taking this time.

RB: Thank you very much. It's been a pleasure. I only wrap up emphasizing what a national treasure I think the SEC is, has always been, how much it means to people who don't know anything about it. The average guy or gal with a 401K, trying to figure out how to finance their kids' college education without drowning in debt, people trying to move from one generation to the next and accumulate wealth. There are people in this country who think accumulating wealth is a bad thing and deserves a dirty name and shame on them as far as I'm concerned.

I never found it philosophically challenging to rejoice in the economic success of every American. The markets are a place for democratizing our economy in my view, of letting the ordinary person participate in owning even the biggest companies, and that was not reserved and monopolized for one class of people. It's open to anyone. A New York City cab driver could invest in stocks and that sets America apart. The SEC has helped keep it an open market and a fair market. Fairness is a tough thing because in a securities trade because somebody profits, somebody else doesn't profit. Is that fair? Yes, it's fair if everybody had an equal access to information and if markets weren't driven by manipulation, they'd run on supply and demand.

The SEC in ways that the general public doesn't see very often—they might see a famous case in insider trading. But the real importance of the Commission to the country and to the world is as the leading exponent of open markets and competitive markets, and markets that operate not on manipulation, not with people somewhere rigging the outcome, but on forces where everybody is free to build their companies and compensate their employees, and have the public participate. A huge amount at stake.

I was honored that President Bush gave me the chance to lead the agency. He was the greatest man I ever had the privilege of knowing and working with, not to the exclusion of my father and many other people who have been important in my life. But George Bush was an inspiration to me every day that I was there and in the 30 years since then. He gave me a privilege that was tremendous. I tried every day to justify his confidence in me and to justify the efforts of every man and woman at the Commission. I hope that everyone who fills that job from now through eternity has the same attitude and does their best.

We're all human and we're all fallible. We can make mistakes of every kind and shape, but hopefully the common denominator, is you have a superb staff. I always hope that the staff doesn't bog down in self-congratulation. I think that is a risk of the SEC that maintaining excellence really means maintaining vigilance against the easy answers and the routine, and we've always done it this way. True excellence demands staying up to date, but at the same time, when you have a principle, like our capital rules.

We didn't talk about Mike Macciaroli. Maybe we'll do another session some time, but we had a long fight over reconciling to U.S. GAAP for foreign companies. We had a long fight over an attempt to impose bank capital standards on the U.S. market. We've had disagreements over whether the Fed should bail out Drexel Burnham where we eventually prevailed and prevented them from bailing them out, which they wanted to do, which would have been catastrophic for market disciplines.

In area after area, when you boil down what the SEC does there are underlying principles. The staff and the commissioners, and the chairmen all have to understand those principles and reexamine them always, but try and apply them to what the world throws at you.

I know it's been a source of great joy for me over the intervening decades of seeing, whenever we get together, my colleagues who were on that journey with me in those years, we know we changed the world for the better. Not all of us get a chance—talk about giving back, we all had a chance to give back and were successful, I think. Not that we were perfect and not that every decision we made was the right one, but we did leave the world a better place than it was, and we left the Commission a better place. Hopefully if each generation has that attitude and that determination then the agency will continue to deserve that reputation for excellence that it's always enjoyed.

KD: Terrific place to stop. Thank you very much.

RB: Thanks Ken.