Securities and Exchange Commission Historical Society
Interview with Robert Birnbaum
Conducted on April 30, 2007, by Kenneth Durr

KD: This is an interview with Robert Birnbaum on April 30, 2007 in Boca Raton, Florida, by Kenneth Durr. So, you were working days, and you went to Georgetown Law at night?

RB: Right.

KD: How were you approached to join the SEC?

RB: My best friend—we had lived together in New York, actually—he got his first legal job at the SEC. When I came back from California, I started at Georgetown and went to work for the General Accounting Office. The SEC had this Special Study, which Congress had authorized money for, and he got me an interview there, and then I was hired. So that was my big break, actually. Really, I could have been God knows what.

KD: Tucked away in the GAO.

RB: The GAO was terrible. It was really terrible, because I hadn't been in school for about ten years, and I was never a student to begin with. School was like a joke for me, and I spent the whole time in the study hall looking at the girls. I never went to class. And then when I was on the board in New York, the president of NYU was on the board—a former congressman from Indiana, John Brademas. We were going off the board, and they always have a dinner for the incoming and outgoing; and the dinner was held at NYU, in their beautiful Bobst Library —a gorgeous place. It wasn't there when I was there. And when I got up to speak, I said, "You all know that I'm a graduate of NYU, and I have to tell you: this is the first time I've ever been in the library." I said, "I didn't know where the library was." It was true. I mean, I always thought: How did I get through college? I used to wait until the week before the finals and then study. Otherwise, I ran around with the basketball team.

KD: That certainly wasn't the case here, when you came into the SEC.

RB: I loved the SEC. At the GAO I was working on some legislative digest and when I'd walk around, I would literally see lawyers sleeping in their offices. Then I came to the SEC, and the guys were screaming and yelling and cursing. There was action; it was wild. I had all these young, extremely bright guys, and so it was great for me to get into this kind of an atmosphere. I felt terrific. I loved it there. I really did.

KD: Everybody has a specialty in the Special Study. What was your area?

RB: You can't say a specialty, because we were assigned to work on certain things. One of the sections I worked on was margin. I went over to the Federal Reserve to work there. And the credit thing. We made changes. And then I worked on bringing the proxy insider trading rules—in those days I think it was Section 14, 15, and 16 of the Act. They were only on exchange-listed companies. I worked on bringing those regulatory requirements to companies of size in the over-the-counter market. Basically I was setting what standard we should use: how many shareholders, how much money. We did a survey of companies. I learned how to work with the IBM punch cards then, putting them in the machine. It was terrific. And the leadership there at the Study were very unusual guys. They really were. The director was Milton Cohen, who was a well-known lawyer from Chicago. He died several years ago. He was a slave driver, but terrific. And then Ralph Saul was second. Ralph is a wonderful, intelligent man. And among the other three guys at the top was Dick Paul, from Paul, Weiss, Rifkin. He also died very young. He was a very, very bright guy. He would dictate a complaint without looking at a thing, just dictate the whole thing for about forty-five minutes. Unbelievable. And that's after he had four martinis for lunch. He liked the booze. Then there was a man who was a friend of mine from then on, and very instrumental in me doing well. He was a professor from Columbia Graduate School, Sid Robbins. He came down and worked Monday and Tuesday, worked until about one in the morning on Monday, and twelve o'clock on Tuesday, and then he'd go back to New York. I somehow got involved working with him a lot. And he would say to everybody, "This is one of the brightest guys you've got here." Nobody knew who the heck I was. And so I remained friends all my life with him. After he left and went back to Columbia, I used to go teach one of his classes every year. And we remained friends. He's still alive. He's about ninety-four, and living in an adult community in Stanford

KD: He was an economist.

RB: He was an economist. But he was one of the few economists who got rid of all the baloney. He always had something to say about how you could take action about something. He didn't just theorize. He was terrific. And the fifth guy was Herb Schick, a bright lawyer from Philadelphia. They were lucky at the SEC in those days. If you were a lawyer, the government was the only place to work, unless you had a special interest in something. The two places to work were the Justice Department and the SEC. And the SEC had all these bright young guys, a large percentage of them Jewish, because they couldn't get hired by Wall Street firms in those days. Today, it's different. So it was phenomenal. Norman Poser was from Harvard; Dave Silver was from Harvard. Rothkopf, I think, was from Harvard. He became president of an university. I don't know where he is today.

So it was a very unusual group. And it was a very close-knit group, because we didn't have a big staff. If you added everybody up, including the secretaries, maybe we had sixty people, and we covered an unbelievable amount of ground. It's still quoted today, the Special Study, which is very unusual. So it was a great experience for me. And that's how I ended up getting hired at the Exchange. That's how people knew me. I would have been happy to stay at the SEC all my life, except I didn't have any money. You almost had to leave. Maybe you can make a living there today, but when I left the SEC I was a branch chief. I was married with a kid already, and I think another one on the way, and I was making fourteen thousand dollars. And I had done very well. When I first started I think I was making like five thousand a year, and you couldn't get a raise. You had to wait a year to get a grade raise. They used to give me twenty dollars in expenses a week, so I got an extra thousand. It was a lot of money in those days, to get an extra thousand. So, it was a great place. And I was lucky in my career, because when I went to the American Stock Exchange, Ralph Saul, who had hired me to come to the government, had left and gone to work for Investors Diversified Services. Then, a year later, he became president of the Exchange. So I went with him. And then Poser came there, and there were others: Fred Siesel, I think, was there. People ask me, "What's the difference?" It was very much the same as working in the government. I was working at first for Ralph Saul, and he used to say to me, "Bob, why don't you find out what the floor traders are doing on the Exchange? What the hell are they doing?" Or the guys off the floor who were trading—members who were sitting in Short Hills, New Jersey, and trading: "What are they doing?" And I would disappear for three weeks.

KD: And this was when you were at AMEX?

RB: Yes. I would disappear for three weeks and go interview members in Greenwich, Connecticut, in huge mansions; and watch them trade. Then I would write him a report, and I would say, "We should do this." And that's the kind of assignment I had. Talking about the Exchange, is that all right? Or do you want to concentrate on—

KD: No, that's fine.

RB: See, I never thought I would be at the Exchange more than a year or two because there was no job that I would take there. I didn't want to stay at the Exchange. The only good job would have been the general counsel, and I didn't have a shot at that when I started. They offered me an officer's job to take over one of the divisions, but I turned them down. I said, "I don't want a line job."

KD: Why not?

RB: I thought I'd be into the bureaucratic thing at the Exchange. Here, I was working as the assistant to the chairman. I was in on all the action. They probably considered firing me, I'm sure; because things got very bad in '73, '74. There was no business, and the place was terrible. New York was doing about ten million shares a day; we were doing about a million shares a day. I didn't let anyone eat lunch until I checked the volume. And I had been there since '67; and by '73 I still hadn't—nobody ever worked for me. And I only reported to one person. And so finally, the first time I took a line job was when they made me executive vice-president.

KD: That's pretty good.

RB: Yes.

KD: So you were getting special projects.

RB: A lot of special projects, yes.

KD: Well let's go back a little bit to your special project for the SEC. You talked about doing margins, looking at insider trading—

RB: When I first started there, I found out what it's like to be a lawyer—a good lawyer—on the first assignment I had. That's the one of the few things I remember. They asked me to do a history of the regional stock exchanges. So I disappeared, and worked on that. And then Milton Cohen said to me, "Well, are you going to finish?" I said, "I'm almost finished." And I brought it in to him; and it was enormous. And Milton took it from me and said, "Very good job."

KD: He was weighing it.

RB: He weighed it. I'm sure it was garbage. He just weighed it and said: "Very good job." But I did a lot of stuff. The over-the-counter thing I spent a lot of time on. That was a big project. Of course, we were getting ready to recommend legislation, because you needed to have congressional legislation to put those things into effect.

KD: My understanding was that the Special Study was really more prescriptive, or more diagnostic: 'here's how things work,' rather than saying, 'This is the kind of law you need to fix this.'

RB: Well, it was diagnostic, absolutely, because we started out knowing nothing. What did we know about the securities business? Most of us didn't know anything. What did we know about Wall Street? Most of us knew nothing. But we made probably a hundred recommendations. And at the end of each chapter, there were significant recommendations.

KD: What was your chapter? Was that on the over-the-counter?

RB: Over-the-counter was a big part of what I worked on, yes.

KD: I mean, did you have a chapter, or were you working with other folks?

RB: I was working with other people, I think. Not a lot of people. Like on the credit thing, I think, there was only one guy I was working with—I think Jim Bacon. I don't know if you've ever heard Jim's name.

KD: Tell me about that regional Exchange work. Did you actually go visit regional Exchanges?

RB: No. You can't imagine what it was like. When the Study was over, one of the recommendations was that the SEC should have periodic examinations of all the Exchanges—pick an area, enforcement, or whatever, whether it's the specialist or the floor trader—and send two or three guys up to New York for a couple of days, and then they come back, write a report; and we would then tell the Exchange what they were doing right or wrong. Well, I remember this to this day: they sent David Silver and me up to New York. And we were young—Dave was smart, but I was a young idiot—and we went up to New York and met with the president of the AMEX, Ted Etherington.

That's really how I got to the AMEX, because even before Ralph Saul asked me to go with him, Ted Etherington had asked me to come work for him. But before I could respond, he accepted a job as president of Wesleyan University. So I didn't go there at that time. Then Ralph came to me right after that.

Ted Etherington had all of these senior officers who had lunch with us. And when we told them what we were going to do, they couldn't believe it. These guys from Washington are going to come to the Exchange? SEC people had never been to the Exchanges. They had never been to the New York Stock Exchange. You can't imagine. They had one guy at the SEC—one—who was in charge of regulation of the over-the-counter market. One person. They didn't know anything. And so they couldn't believe that we were coming. When we first started going to New York, the President was just a good-looking marketing guy; he didn't know anything. He was a nice man. He used to go around the country and make speeches. "Own a share of America." That was his theme. The guy who ran the place was Ed Gray, Executive VP. When we used to go up there, they would put us on the top floor of the Exchange. You had to take the elevator up, get off, take another elevator three floors—I don't think there were any phones there; they treated us like we were garbage. I mean it was unbelievable. We called it the 'Gray Method.' The whole thing was so different. Wall Street didn't know about the SEC really. Today they know about it. In those days—I remember when we sent Gene Rotberg and Fred Moss up to Morgan Stanley. We were going to have very detailed questionnaires to some of the major firms. So we sent Fred Moss and Gene Rotberg up to Morgan Stanley, to tell them this is going to be what we're doing. First of all, they couldn't even get an appointment at Morgan Stanley. Byron Woodside, who was a commissioner, had to call Morgan Stanley to get these two young lawyers an appointment. When they went up there—I mean the story I don't even want to repeat, but have you ever heard the story?

KD: I have, yes.

RB: There's probably a lot of lies in the story. Fred Moss was my best friend, so I mean—

KD: Well I think I'm going to let Gene Rotberg—

RB: Gene could always exaggerate.

KD: Well, the idea, I guess, was that the industry wasn't really worried about the SEC.

RB: Oh, not at all. But when the Special Study came out with its report in 1963, after two years, the headlines in the *New York Times* were this high. I have the clips. They gave us the clips of the papers all over the United States as one of our presents. It was huge. It was huge! But till then? Nothing. They didn't know anything about the SEC. I think the philosophy of most of the Republican administrations was: Let the industry alone. Don't bother with them. They were not regulatory minded, I don't think. And maybe they were right, and maybe they were wrong.

KD: Now, the Special Study, I get the sense, was this almost its own group within the SEC.

RB: It was in its own group, right. Absolutely. But you had to know a lot of people at the Commission who weren't on the Special Study. One guy in particular I met was Art Fleischer, who was the executive assistant to Bill Cary. He was our liaison to the Chairman. It's funny little things that I remember. In those days, the SEC building was what we called the 'Tarpaper Shack,' which had been built as a temporary place. I had an office with Gary Strum—a lovely guy, who's now dead—an office about four feet by five feet; we sat with our desks facing one another. The place was piled high with stuff. We had no windows. And you know how hot Washington is—no air-conditioning. We were young though; who cared? I never thought about it. They had a cafeteria, and everybody used to go to lunch in the same place. You'd sit down, and say, "Ken, where do you work?" He would say, "Well I'm in Corp Fin." And then, when we moved to the new building we didn't have a cafeteria, and everybody used to go out to eat. You never saw anybody except the people who were on your floor. The divisions never had any interaction. It was funny, just that little thing of socializing and meeting people—you found out what people were doing, and it was great. And that disappeared once they got a nice building.

KD: This is the early '60s, the Kennedy administration, the New Frontier, and all that.

RB: Yes, I remember when Kennedy was shot. I came back to the office and we had to figure out what we should do. I remember going to see Ralph Saul, because we wanted to stop trading but we didn't even know if we had the authority. We were all running around like crazy there.

KD: Was there a sense of idealism throughout the Commission?

RB: Oh yes, but you have to remember: Washington, when Kennedy first came in, was a glamorous place to be. Washington was the center of the universe. So yes, there was a sense of idealism. People used to say, "Well what are you working for?" And guys would come up with grandiose things like: "I'm trying to protect public investors." But I said, "Let me tell you something. The only reason I'm working is that I have a lovely wife and children, and that's why I'm working." I said, "I'm trying to take care of my family." When I came to the Exchange, I knew I would never do anything dishonest. I was trying to run a marketplace which had integrity, where everything was done on the up-and-up. To me, it was the exact same thing. I really never felt any different when I was at the Exchange. That's what I was trying to do.

KD: Interesting. It's not like being on one side, and then the other side.

RB: No, it wasn't, to me. Yes, to me, there were not two sides. I always had Chairmen who were very decent people with integrity, like Ralph Saul. I'm sure Ralph Saul has never done anything that you could say was even maybe on the borderline of being unethical. Once in a while I might have, yes. But he never did. I'm sure. So it was the same to me. When I first got to the American Exchange, they had fixed commission rates, and they were under attack. And I had been part of the attack, on the other side; and then when we came to the Exchange, Ralph and I, we went down and testified. We must have worked three weeks; we didn't go home. We ate breakfast, lunch, dinner at the Exchange; didn't even go home. We were preparing to testify. And we defended it, of course. And I said, "Look, anybody who gives up a monopoly has to be an idiot. You don't give up a monopoly if you're in business, until you have to." Of course we defended it. And I knew that probably it was better not to have fixed rates for everybody; but it wasn't better for us. So, I'm working for them. If you don't like who you're working for you ought to go elsewhere.

KD: Take me back a little bit. This issue of fixed commission rates looms really large in the late '60s, early '70s. And you said that you had been part of the attack when you were at the SEC. Can you take me back to that, and what your role was there?

RB: I didn't have a major role in it, but we knew. The business had changed over a number of years from hundred share investors to a tremendous amount of institutional investing. Mutual funds were getting big, and they were trading ten-thousand-share lots. You didn't have to be a genius to realize that multiplying a hundred shares by a hundred, for ten thousand, doesn't make any sense because to execute the order is the exact same thing. You walked out to the post and executed a hundred shares; you walked out to the post and said, "I have a block," and you executed that, and you got the commissions. And then, of course, they had what they called 'give-ups' in those days. You would execute the order and get a hundred dollars; and the guy who gave it to you would say, "I want you to give twenty dollars to my aunt in Kalamazoo, ten dollars to—"and so forth, and they would distribute the money around. Give-ups. So it didn't take much to realize that they were getting paid too much if they were willing to do that. Look, I remember to this day when I had gone to the Exchange, and they held hearings on the commission rates. Gene Rotberg was a great questioner. He could lead you into a trap so beautifully—and I remember he had somebody testifying. The Exchange sent me to observe. He was questioning a man who was a very nice character, a Damon Runyon character who had four seats on the AMEX, I think, and he said to the guy—when he got to the give-ups, you know, "Well, why did you do that?" The guy said, "How rich did I want to be?" I remember when it was over, Gene was patting himself on the back; and I said to him, "You know, Gene, the first thing you should figure out is what you want to have after this is over. Just to destroy something, without knowing where you're going, is stupid to me." Yes, you destroyed them, but now what are you going to do?

KD: Wasn't the assumption that the rates would be competitive after that?

RB: Well, it went slowly. You didn't go right to that. If the exchanges had been smart—and they weren't—they would have immediately offered volume discounts. They would have protected what they had by offering discounts. They're probably better off today. Right now I'm on the board of the Chicago Board Options Exchange. And the volume is beyond anybody's imagination. Nobody could have dreamed of it. Where is it all coming from? You get a different story from every professional. And the option business is bigger than the equity business. I remember the first day options reported to me when it started at the AMEX in 1975. And I think the first day we did thirteen contracts. And who could have dreamed it would reach such levels? When the Chicago people came to New York to talk about options, they went to the AMEX and New York and we all laughed at them; we thought they were a bunch of morons.

KD: For doing options?

RB: Yes, we never thought this was going to be anything. Nobody did.

KD: When was that?

RB: The CBOE started in 1973, and the AMEX started in 1975.

KD: Okay. So it's just a few years.

RB: Not a long time. It was one of the dramatic changes in the business, though.

KD: Yes. Tell me about the decision to get into options at AMEX.

RB: The AMEX was easy. The CBOE was hard. They started a completely new thing. I mean there were over-the-counter options, put-and-call— but at the AMEX, you have to remember, in the '70s—early '70s—the equity business was dying. So we were very concerned. The CBOE looked like it was going to be good. It was an easy decision for us to go into it. And we had a couple of people on our board who were very knowledgeable at options because they were huge options traders from New York. That helped us get started. One of them is a friend of mine to this day—Bill Mayer. There was another who's dead—died a couple of years ago—Irwin (Gus) Guttag. We had two people on the board who were very knowledgeable in the whole thing. So it wasn't much of a decision for us. First of all, it wasn't expensive to start. You had the same firms on the floor, going to trade the options. You didn't need a big staff. We had an options department we started, but it wasn't a huge commitment. And the biggest expense was probably the outside legal expense to get it started. We had to adopt all new rules to apply to options. And we made some mistakes. Right at the end, I had to go to Washington—had a huge to-do there because we applied certain rules to options that were in the equity market, that were completely unworkable.

KD: What were those?

RB: Well, it's things like: the traders on the floor, they couldn't buy on a uptick. You know what I mean by an uptick?

KD: Yes.

RB: They couldn't buy on an uptick. Well it didn't make any sense in options, because you could be trading an option on the floor, and the equity could move up; and meanwhile, there were no trades in the options. So the next trade's going to be an uptick, and they're out; they can't trade. I mean I had to go down to Washington and change the rules with two weeks to go. But it wasn't a huge thing like the CBOE, which had to build an entire Exchange. They had a whole different thing. They had to sell memberships. We had the members there already so it was much easier for us.

KD: Was there any difference in the way that you handled them, with what the CBOE was doing? Would an options trader have favored one over the other for some reason?

RB: No, I don't know. Traders are always looking for an edge and the smart ones find it, and by the time you figure it out, they've moved on to another edge. But they were similar. They had a very, very intelligent guy who was the first head of the CBOE, someone who had been a *Wall Street Journal* reporter—Joe Sullivan. And he was enormously bright. And I know they did some things that were unlawful. I never turned them in, but I talked to them about it. They were starting something, so they let things slide, that they shouldn't have, in order to get the business moving. Maybe I would have done the same. Who knows? But we were very similar. And the only thing I would say is that there were members who went from New York to Chicago because the opportunities were greater there. They were the ones who made an immense amount of money because they were very knowledgeable in options when the world was not really that savvy yet. So if you were smart you could make a lot of money, and some guys did make a lot of money—still, to this day, I think.

KD: CBOE was doing a lot more volume?

RB: It was doing more volume than us. Yes.

KD: My impression is that the business took off pretty quickly.

RB: It grew fairly rapidly. But in those days—I don't know when this changed, but it didn't change when I was there—the options were exclusive. In other words, if CBOE had options on General Motors, the AMEX didn't, so a lot of good stocks were locked up. That changed not that many years ago when the SEC forced the whole thing to open up, and today it's like the equity market: everybody trades the same thing, basically. But at that time options was a huge development in the business. The other thing today—and nobody knows how big this is, and to me, the SEC has not done their job here—is hedge funds. People tell me that the hedge funds are accounting for thirty, forty percent of the trading on the New York Stock Exchange every day. And for the government to sit there and not know what they're doing, to me, is a little bit crazy.

Now, my good friends in Chicago, they say, "Bob, what are you talking about? What would the SEC do?" I say, "You may be right." But, to me, it's a little bit crazy that they don't even know what hedge funds are trading in. I mean, we almost had that meltdown with Long-Term Capital Management. Who knows? Yes, the market is harder to regulate today, so much more difficult than it was when I started in the business, when they were only trading equities. Now, you're looking at some guy, and he's got X shares of equities, he's short the option, he's trading futures in the same thing—you've have to have a smart investigator to figure out whether he's long or short. It's a very difficult thing today to regulate—very difficult. One of the plusses is that almost everything is automated, so you can pick it up much faster. But the market has some scary things in it. The hedge funds are a little bit scary. Two weeks ago in the paper, one of the hedge fund managers in New York—in 2006 he made a billion, seven hundred million dollars. And I don't have to be a genius to know that's absolutely ludicrous, that there's no way he deserves it—no way.

The hedge fund people are running New York, all of the charities in New York. It used to be brokerage house people. Now it's all the hedge fund guys. The highest paid person in the brokerage business last year was Lloyd Blankfein from Goldman Sachs; he made fifty-seven million dollars. That doesn't get him near—you've got to make over two hundred million to be listed in the hedge fund guide. I mean, they're running the place. What's the first thing they do? They buy a ten million dollar apartment. You can't get a Ferrari this year in New York; they're all gone.

KD: What a shame.

RB: It's a shame. Then they all buy art. They don't know anything about art. And they bid up everything. That's why, with the real estate market going down, Manhattan is still going up. It's all because of Wall Street. When people bid up things higher than they should be, normal wage earners are priced out of the market. It's not good for a democracy, I don't think, when you just have a small group of people—. Also, New York City better worry, because all of their income is coming from Wall Street today—more than ever. And if there's a downturn, and there always is a downturn, let's face it—nobody knows when, but there always is one.

KD: Well let's go back to when things were a little simpler. When you got out of the Special Study, when you were finished, did you go into one of the divisions, at that point?

RB: Yes.

KD: Which one?

RB: Well, we changed the name of it. One of our top recommendations was to change the name of Trading and Exchanges to Trading and Markets. That was our brilliant recommendation.

KD: And it was something you could accomplish.

RB: Yes. That was a good story. When the Study was over, it was 1963, I was like thirty-seven, thirty-eight years old already. And two things: first, after the Special Study was over, the SEC had a special study of mutual funds. Gordon Henderson and Bob Mundheim came to me and said, "We'd like you to join." And I said, "No thank you."

KD: Why?

RB: Well, I said, "It's about time I took a real job. I'm not going on another Study." Then I got a call from Manny Cohen, who was the Commissioner. He was a legend at the SEC. I knew Manny, because when I worked on this over-the-counter thing, he was the commissioner—he wasn't the Chairman then, he was a Commissioner. And he was shepherding that, so I got to know him. And his assistant at that time was Dick Phillips. Dick was taking a job in the General Counsel's office, so I think Gene Rotberg was friendly with Manny, and he said, "You should talk to Bob Birnbaum." And I was on vacation—vacation meant I was home; I didn't have enough money to go anywhere. And he called me up, and said to come in. He wanted to interview me. So I went in. And Manny was a funny guy. He was sitting there; he had my personnel file in front of him; and he said, "You know I'm looking for an assistant, a legal assistant." That was considered a big job at the Commission. In those days they didn't have four assistants, they had one. And he said, "I'd like to offer you the job." And so I said, "Manny, I really appreciate it." Ralph Saul was going into the Division of Trading as either the director, or associate director; and he wanted me to go with him. I said, "I think I'm really too old to be anybody's assistant." Manny said, "Well, I don't know if you're the right guy for the job." I said, "Manny, you called me; I didn't call you." And nobody ever talked to him like that. So it was the right decision for me at that time.

KD: So you went into the Trading—

RB: So I went into Trading; and I wound up as the branch chief of the regulation of the over-the-counter market and the exchanges.

KD: What was the big issue for you at that point? What were you spending your time thinking about?

RB: How to make more money, I guess. I don't know.

KD: Besides that.

RB: It's a long time ago. I was fairly relaxed, because—I'll tell you what: when I went to law school and came to the SEC, I didn't know if I could be a decent lawyer. There was nothing in my background—I had played around in college; I went to work for about ten years; I was bumming around New York; I was single; I didn't pay much attention to work. I didn't like it because I was working for a women's wear chain store. I hated it. But I didn't do anything. And I remember, I said to my best friend, Fred Moss, one day, "You know, I don't know what to do. I'm working, and I don't like it." He looked me in the eye and he said, "Bob, do <u>something</u>." That's advice I give to kids when they give me this crap about not knowing what they want to do. "Try <u>something</u>." The only way you're going to find out if you like anything is to do something and not sit around saying, "uh, uh." Fred was a lawyer at the SEC, so that's how I ended up going to law school. But to get back to your question, I don't know what the big issues were in those days. We were just starting inspections of the exchanges, just getting our feet wet, really.

KD: You were looking at the over-the-counter market.

RB: Yes, we had a much more intensive look at the over-the-counter market. I knew there was a lot of trouble there. All the prices were in the pink sheets in those days, and I went over there and took pink sheets from five years ago and checked every company; and I found out that—I don't remember the number—but maybe five hundred of them were bankrupt. We knew there was a whole mess there. The truth is that the SEC is partially responsible for the growth of the over-the-counter market because the SEC recommended that they automate the trading.

KD: Was this during that time?

RB: The Study—yes. And, you know, they fought that like crazy. But that was the best thing that ever happened to them. It's the same thing with negotiated commission rates—probably the best thing to happen to the Exchanges, because the volume increased dramatically.

KD: But both of these things took time; and that gets to an issue, which is: some people say, 'Well the Special Study was conservative, because it didn't call for enough change. It didn't have hearings so it could build support for these changes. And it took too long for the changes to come—ten years sometimes.'

RB: Well, it's always easy to criticize. But I don't think that's really valid. There hadn't been much change in these securities markets for forty years. And we weren't looking to take down the system. We weren't looking to say, 'There should be no specialist on the New York Stock Exchange.' That would have been a fight you wouldn't win. And I remember about the automation—bright and early in the game, I went to the Defense Department to interview a husband and wife team. I think their name was James. They had created a computer program for the securities markets, all automated. I came back, and Ralph Saul asked me about it. I said, "Yes, they did it. Maybe it works, maybe it doesn't. Who knows?" Who knows what it does to the liquidity of the market, in other words. I had no idea. At least with the specialist, you knew. Of course, they were making a lot of money that they probably shouldn't have made, but liquidity is one of the most important things in the market. You can make a market maybe so efficient that guys say to themselves, 'Hey look, if I put my money in T-bills without any risk, I'm better off than doing this; because the profit margin—.' When I was at the New York Stock Exchange, there were probably twenty-five to thirty specialists units. They probably have five to eight today, the same number of people but they're all in huge operations. They've all been bought out. And it's the same on all the floors. At the CBOE, it's the same thing. Now, that means there's more risk, because you have a smaller number of firms. The Special Study really was the cause of getting rid of odd lot brokers. All the rich guys who had gone to Princeton became odd lot brokers, because you didn't have to do anything.

KD: Did that go out in the '64 recommendations?

RB: I don't think it went out right away. But we killed them, certainly. There were a lot of things the Study did. We weren't looking to change the world. We didn't know enough about the world to change it. We were just feeling our own way, getting educated. It's hard to get educated, and say, 'Well everything has to change.' Look, if you were starting out, you wouldn't have had all these regional Exchanges. The regional Exchanges occurred because of the fact that in the twenties and thirties there wasn't good communication in the United States. So out west you had the mining companies on the Exchange. In Philadelphia, you had the railroads. It was germane to their area. Today: do you need them? Yes, if there was one place they could do it all. New York got driven into some things they didn't want to get driven into, because the regional Exchanges were always looking for some way to get business. I think Chicago came up with one of the first clearing systems. So competition is always good. Certainly in those days, New York would have wiped anybody out if they could have. They didn't want any competition, period. So you can criticize it. There are always things that could have been better. But I think for what it was, it was very unusual, really.

KD: So there wasn't a group that was unhappy because—?

RB: No, we didn't have fights because some guys said, 'No, goddamn it, you guys. You're not going far enough.' We didn't have any of that. If it happened, I was not present. No. First of all, it was very segmented. Not every one on the Study got involved in the specialist system. The two main guys in it were Dave Silver and my good friend Gary Strum, who was working for Dave. They both became very expert. In the over-the-counter market there was Rotberg and Dick Meyer. So people became very conversant in their area. But every other guy was not really familiar with what was going on in all the areas. So we didn't have those kinds of arguments. Whether the ones at the top did—you know, top guys tend to be more conservative than those at the bottom. That's just a fact of life. When I left the AMEX to go to the New York Stock Exchange, there was all kinds of speculation about a merger between New York and AMEX, which they'd been trying to do for forty years but could never get done. I said to the Chairman, "Look, I didn't come here to change the goddamn world. I didn't come here to get rid of the specialist system, because that's going to take years, and I don't feel like fighting for three years about something like that, when I don't even know the end result is better." I told him, right at the beginning. New York was lucky in a way, because they brought in a lot of automation and because they had a Chairman—John Phelan—who was the first specialist to become the top guy. He was very smart, John—very, very smart; and very politically astute. He was smarter than all the members on the floor, so he could convince them. And every breakfast, lunch and dinner was with a purpose. I would have lunch with my friends, but he would have lunch—everything was with a purpose. He convinced the specialists about automating because they didn't want to automate anything. And if New York hadn't started that, they would never have been able to handle the business, and the government would have clamped down. Something would have happened because the government would have done something. They would have been so upset that they could never let it exist the way it was. So they're lucky they moved that way.

KD: Speaking of not being able to handle the business—when you came into AMEX, one of the first things that they did was the back office problem, where—

RB: Yes, we had to close down, as I remember. At first it was a half hour every day, then it was every Wednesday.

KD: What could AMEX do about that, other than closing down every now and then?

RB: Well, they could have had a better system. But that takes time to develop. First they had to study what was there and figure out what to do. Then I think we hired somebody—I think it was Rand Corporation—the AMEX was already heavily involved, with Ralph Saul leading the way, and—maybe more than New York, in straightening everything out, in the back office.

KD: Bringing in a consultant to look at automation?

RB: Yes, how we can automate this and do it better. Ralph was very instrumental in that, I think. I never got involved in it.

KD: Was the SEC involved?

RB: Sure they were involved, but I don't think they knew what to do, really. If they knew, they would have told us. But I don't think they knew what to do.

KD: So you handled a series of special projects for Ralph Saul.

RB: Yes, that was in the beginning.

KD: What were some of the things you were doing?

RB: You think I remember these things? God Almighty, I don't really remember. I don't remember. You're talking about forty years ago.

KD: Well, another big issue that comes up—we're talking about automation—is the way that NASDAQ took off, and the SEC starts talking about a national market system.

RB: Yes. I was involved in that to some extent.

KD: From your perspective at AMEX, did you see this as a problem, or as an opportunity?

RB: Well, the AMEX was really a lot like New York in the sense that, while we were much smaller and we didn't have the quality companies that they had, we were really like a monopoly in our stocks. The third market, the over-the-counter, was more focused on the quality stocks on New York than they were on AMEX stocks. We weren't looking for great change because we were doing most of the business. We didn't see a great opportunity for us. What were we going to capture? You know what I mean? Just like New York, they're not going to capture more business in whatever stocks that they trade; they've got to look for other opportunities, which has been very difficult for them. When I was there, New York traded futures. I was involved in selling the AMEX futures market to New York. And New York, when they started trading options, they thought that they would be able to capture a lot of business. What happens is that the top guys at New York call up the CEO of Merrill Lynch, and they say, 'You know we're going to start options, and we hope you're going to give us—' 'Oh absolutely, we're going to give the business to you.' Okay? And then they call all around. Everybody says, 'Yeah, terrific idea,' because firms like more competition; they're afraid if somebody has all of it—they control the pricing. They like it a little bit divided. But with New York, what happens is you start trading, and the CEO, who knows nothing about options to begin with—unless he came out of that, and most of the CEOs didn't—the traders that decide where the business is going. They've got relationships with AMEX or the CBOE; and they're thinking, 'What do I want to go to New York for? What the hell, forget the CEO. Who cares about him?' So nobody gave New York business. I mean they had their established—

KD: They weren't worried about getting a lower price?

RB: No, well—the chances are that you get the best price where the most volume is. And the guy starting out is not going to give you the best price, generally. It always turned out that the Exchanges which got the volume immediately were the ones who started attracting more business, because it goes where the volume goes. So New York has never really been able to transfer their name to another product. And the funny thing is, the further away you get from New York—Europe, Asia—the further away you get, the better New York's name is;

but for the people who control most of the business in New York, they know it's a bunch of nonsense. When I was President at New York, if I used to go to make a speech far away, oh, they thought: 'Gee, this guy is President of New York, what a big deal.' But in New York, if you go to a party there are fifty guys there who could buy and sell you. The farther away you got, the better they looked at you. I think that's what it is. But New York, I don't think, has an easy row to hoe here. In some ways, I think they're probably lucky that they have John Thain, who's a very bright man, and is not beholden to the old way of doing business. Because you can be sure that when you're working for Goldman Sachs, or Salomon Smith Barney, or Morgan Stanley—they are not tied to New York. Take a firm like Merrill Lynch: when I started in the business, I'm sure that they got seventy-five percent of their commissions from trading equities. Today it must be miniscule. If it's more than ten percent I'd be surprised. Where are they getting their money? Investment banking. Goldman Sachs did a statement for the last three months; they made seventy-five percent of their money in proprietary trading. So what do they care about the Exchange? It means nothing to them. They're doing so many other things, which is a little bit scary too, in that the proprietary trading of the firms has increased so dramatically.

KD: And that's trading without an Exchange?

RB: Well, some of it is on an Exchange. But they go all over the world and they're trading different products. They're trading interest rates futures, they're trading—God knows what they're doing. It's a little bit risky; but you can't take away the edge of an insider. I tell any individual who's trading a lot, 'You've got to be a moron to do that.' I always tell my kids—they don't listen—I always say, 'You buy a quality stock, and put it in the vault. You can't trade in and out, and expect to beat professionals—the hedge fund guys who are sitting there. You've got to be crazy.' First of all: where is all the inside information going? That's another place where I think the SEC has been lax. There's no doubt in my mind that hedge funds have been getting inside information for a good number of years. If you have inside information, and you're at a brokerage house, are you going to call Ken Durr, who trades two hundred shares of a stock, or you're going to call a hedge fund, who's giving you God knows how much money in commissions? They're getting all this information, I'm sure. The SEC should have been looking into that.

KD: You're talking about the end result—at least where we are now in this ongoing process. I want to get some sense of how you saw things changing back in the '70s when you were in the AMEX, and then later on when you moved over to New York.

RB: The biggest change to me was that when I started in the '60s, people weren't interested in the markets. But by the late '70s and '80s, if you got in the taxicab and the driver found out you worked in the Exchange, he wanted to have a long conversation. Before that, nobody was really interested. It was a very small number of people. One of the things that has happened is that even people of moderate means, or less than moderate means—either because of their pension, or investing in mutual funds—have a strong interest in the stock market. It wasn't always like that. I'm sure my father never thought about the stock market—never had any money in it. He didn't have a pension. And that changed as people of very moderate, and less than moderate means, had money that was being invested, even if they didn't know it. Or they did know it, but they didn't know where it was going most of the time.

KD: Well you're talking about the rise of institutional investment.

RB: The institutional investors changed everything, absolutely.

KD: How did it change AMEX while you were there?

RB: Of course, we had institutional business. But I'm sure we had more of the smaller investors than New York because the stocks that we had probably were of less interest to professional investors than New York stocks. So we didn't see great changes. We saw that there were many more people interested in the market, and tried to take advantage of that. And of course we spent a lot of time developing the option business, because the option—it was a dichotomy, in that the option business, when we started, was not terribly meaningful to the Exchange, as an institution, in a financial sense. We didn't have listed companies paying us fees to list, and ongoing fees—which was a huge part of our income. But it was very, very important to the trading floor—the specialist firms. Even going back into the '80s, a lot of them were making more money trading options than trading equities. And that was very important to us, because, what is the Exchange? If these guys aren't there, what are we? We're nothing—just a building—not even a great building. But the Exchange didn't make the same money. Now it seems like I see from my CBOE board thing that the Exchange is making money now. In the first quarter of this year we made a profit of about thirty-five million dollars, which is a lot for the Exchange. I think the profit has increased dramatically because of the huge increase in volume and the efficiencies created by automation. Of course, the trading of options is the most significant development in the trading markets in the last thirty years. When I was at the AMEX, if we had a working capital of twenty million dollars, we probably had a lot of money. Of course, one of the things that's happened—another thing I think the SEC has failed to address—and maybe they're right—is the going public of these institutions. Now, I'm sure that when—I'm not saying we would have been right—but when I was at the SEC, if this would have happened, there's no doubt in my mind that we would have called public hearings.

KD: You mean the Stock Exchange going public?

RB: We would never have allowed them to go public without figuring out: what does this mean to the world, to the investors? We would have done something. We certainly would have held public hearings. And we would have had experts testify. Maybe we would have come up with nothing, and maybe everything would have been fine. But there is a dramatic change. I mean I see it already at the CBOE. In Chicago, the Chicago Board of Trade is public; the Chicago Mercantile is public. We are not.

I have a little concern that when you focus on the bottom line and the three-months reports of financials, that can have an impact on what the staff does. Even now, when we haven't even gone public, I see it in the staff. We've already fired ten percent of the people. People say, 'Why are they such good investments?' I say, 'Because idiots like me ran them and they weren't run like a for-profit corporation.' In other words, we didn't worry about every dollar. Now, they're getting ready to go public, they're all focused on getting their financials so they'll get a good price. That changes things. Now, maybe that'll be for the better. I don't know. I'm not sure. But it will force changes in regulation. They don't want to take regulation away from the Exchange and put it in a separate entity, as New York is already doing, in a way, with NASDAQ. Whether that's good or bad, I don't think anybody knows.

KD: The idea is that the market will come up with a brilliant solution?

RB: Yes, the market will do—maybe that's right. Maybe that's right.

KD: Well, that's drastically different from what was going on in the seventies—the '75 amendment actually said to the SEC, 'take a look and see what you can come up with, as far as changing the market and coming up with a centralized market.'

RB: Basically, that all came out of the Special Study, in a way. And now all those guys are gone, and that whole way of thinking is gone. It's a different world.

KD: But my question to you is: I know that the SEC, rather than just sit around and think about it, went out and talked to people. And I'm wondering if AMEX was consulted, New York Stock Exchange was consulted—do you remember any movement there?

RB: Concerning the national markets?

KD: Yes.

RB: There were hearings in those days, yes. Or if there weren't hearings—and I think there might have been—there were position papers that went out. The SEC would send out a hundred-page position paper and we would respond to it. So yes, they were consulted, in a sense, yes.

KD: How serious did you think this was?

RB: Oh, it was serious. Yes, it was serious.

KD: If it was really serious, you would have started wondering what you were going to do next, because this could have done something to change your business plan.

RB: We never thought we were going to go out of business. We never had that kind of thought. Maybe some of the regionals did, but we didn't. We never thought that, no.

KD: I noticed that the AMEX and the New York Stock Exchange came close to merging in '77. At least that's what the talk was.

RB: I probably know as much about that as anyone. I became president at the AMEX in '77. And I'm sure there were talks, because we were always pressured every year. The Securities Industry Association always wanted one Exchange in New York, rather than two. In fact, before I came to the AMEX, when I was at the SEC, the *Institutional Investor* magazine was just starting. Gil Kaplan started it; he was a former AMEX employee—very bright guy. Gil came to me in Washington, and said, "I'd like you to write an article for our first issue." I said, "Okay." And I called him up a day later and said, "I'm going to write—here's my article. It's 'New York: Why Two Exchanges?'" Then I accepted a job offer about a month later with AMEX and said, "I'm not going to write the article." If you can't put the two Exchanges together in one building, the savings are going to be miniscule. You can save on staff—you don't need two presidents. But the big savings is getting rid of all of the people that the firms have to have on the floor of the AMEX. And if you can't put them all together, I don't think it's a great savings.

KD: So the vision was simply a bigger Exchange.

RB: After I left New York in 1988, and I was working for a law firm in New York from '88 to '93, the AMEX hired me to go over to New York. Bill Donaldson had become Chairman of New York. He'd been out of the business for a long time, and things had changed dramatically. Later, he became SEC Chairman, and did a good job. They asked me to go over and talk to Donaldson and see if I could put a merger together. So I went over to talk to him a couple of times. Dick Grasso was always present. Dick was smart enough never to say a word. New York had always looked down their noses at the AMEX. "That's not our quality guys on the floor over there," you know? But regarding a merger, they're probably right. What's in it for New York? If you're a member on the floor, what the heck is in it for you? So there wasn't much push for it. It's been mentioned for thirty, forty years, because it sounds like the right thing to do. But whether it's really meaningful, who knows?

KD: I understand that it was you or your people at AMEX that told the SEC about Foster Winans, and "Heard on the Street"?

RB: It was me. That I remember very well. Because, first of all, Foster Winans had the nerve—about four weeks ago, he wrote on the editorial page of the *Times*, an editorial saying there shouldn't be any laws against insider trading. He mentioned that he had gone to jail for it. Well, what happened was—I don't know what year that was, I forget.

KD: '84?

RB: I was president, yes. And the worst thing was that my son was working for the *Journal* at the time. Our surveillance department came up with a good number of situations where a stock moved dramatically before there was something in Foster Winans' "Heard on the Street' column, which was the most influential column you could have. So the staff came to me, and they didn't know what to do. What are they going to do? They can't subpoena Foster Winans; they don't have any authority over him. He doesn't have to talk them—period. So, I went down to the SEC and I gave them the material. The SEC called Winans. The *Journal*—I forget who was the top guy—I don't know if it was Peter Kann then—I didn't like them, and they didn't like me anyway—he calls me up and says, "Bob, why did you give it to SEC? Why didn't you come to me?" I said, "How do I know you weren't involved in it?" I said, "If you don't think I did the right thing, why don't you call the SEC and ask them what they think about what Birnbaum did?" Of course the SEC said Birnbaum did exactly the right thing. So this got out in the newspapers, that there was a fight between us; and my poor son was working there. Oh, my God. I don't know if they knew I was his father, though. But the *Journal* was always very pompous, they really were. I never could stand their management.

People have written articles about this: the *Times* comes from a background out of the South. They were southern merchants, the Sulzbergers. And they didn't like the markets. They never did as good a job as the *Journal*. The *Journal* was always ahead of them. When I was at SEC, the *Times* had a reporter—Eileen Shanahan; she was fantastic. And I think because she was a woman she didn't go as far as she deserved. She went to another paper, and then she became like a professor for Northwestern journalism in Washington. Three months out of the year they would send the kids to Washington, and they would represent a paper from around the United States that didn't have anybody in Washington. My son was in the program. And my son would never even tell anybody that his father was president of New York—I mean you don't talk about those things. He was in the office there where their class was, and across the broad tape came: 'New York Stock Exchange names Birnbaum president of the Exchange.' And a girl said, "Oh, Gregg, your father just became President of the Exchange." She was just ribbing him. Eileen Shanahan was there;

she said, "That is his father." But the *Journal* was very tough. I remember going to the *Journal* to appear before their board, when we started to trade options. And I went there with a partner from Goldman Sachs, Bob Minuchin, who was one of the first big block traders in the country. He was on our board. We went over and made a presentation to them, to allow us to trade options on the Dow Jones Index. That would have been huge. That would have been really huge. They said, "We're a newspaper. We're not interested in that." Today it's different; they're in it. But they really looked down on—and maybe if I was them, I would have too; but they really were very pompous, I always thought. I went to lunch with their guy, Bob Barkley, who was their head of the editorial page for about twenty-five years. He was a legend. He had written something about the Exchange; it was totally wrong. So I went to have lunch with him. He didn't hear a word I said. Couldn't care less.

KD: Well, that was a tough time for them. It was the leading edge of all the insider trading scandals.

RB: You know that Winans was giving his information to his boyfriend, too.

KD: Right. It's quite a story.

RB: He was a slimy guy, though. For him to write this thing about a month ago—people have made arguments for years that there shouldn't be anything against insider trading because the information gets out there, and the market reaches its equilibrium faster. But people like Winans are giving information to someone who's sure to make money; and somebody else, if they knew about it, wouldn't be selling to him.

KD: Right.

RB: So he doesn't make much sense.

KD: You were in New York when all the insider trading stuff hit.

RB: Well, yes. But you have to remember that a lot of the insider trading cases come out of the exchanges. In other words, we found a lot of it. And we gave it to the SEC, because we couldn't pursue it.

KD: Well, you're a self-regulating organization, right?

RB: Yes, absolutely. When I was at AMEX, I didn't spend a lot of my time worrying about how they were figuring out what the specialists did. I was used to dealing with global issues, rather than whether some guy was stealing. I was never interested in getting guys fired or putting them in jail. I was too soft for that. I always thought: 'He's got a wife and kids. He might be a good husband and father.' I was more interested in the global thing: How is the market going to look? What's the structure going to be? But New York had a lot of very good regulatory programs, and they became more sophisticated over time. They could spit out in a second relationships, who was on other boards, whether you got a lot of good information. Some of it was useless, like information on Ivan Boesky's trading. Every day at New York, the machine spit his name out. Every day. But what could you do? He was trading, you know, bigger than anybody in the country; so every day he got spit out, because of the volume. Until Marty Segal turned him in, I don't know how else we would have got him. I always liked it that, when I was at the SEC, you could pick and choose what you were going to focus on; whereas when you're at the Exchange, or the NASD—and I was on the NASD board—you've got to cover everything. It's impossible. The NASD has thousands of firms under their jurisdiction. It's a very difficult job to find, to catch everybody.

KD: Another difficult job: October '87.

RB: I loved that.

KD: You loved that?

RB: I did. I loved October '87.

KD: Tell me why.

RB: A lot of days you go to work in New York and nothing happens. The machines are running, not a big deal. So I felt: 'I know what I'm doing, and I'm going to make my decisions.' People think that because you're sitting at the New York Stock Exchange, you know what's going on all over the world. In the middle of that first and second day, Merrill

Lynch could have been in net capital violation, we wouldn't have known it, and they wouldn't have known it either. We could have had ten specialists on the floor who were belly-up and we wouldn't have known it. You can't get the information that fast. I think we did some smart things.

Alan Greenspan was not available; he had just become chairman of the Fed; and we knew him, because we had hired him when I was at New York. He never did the work that he was supposed to do, because he came and said, "I just took the job with the Fed, and I'm not going to do the work." He was a nice character. He had left Washington, so we couldn't get him. Luckily, the head of the New York Fed, Jerry Corrigan—I think he's now a partner at Goldman—we talked to him. They knew from the experience of 1929 that when the banks cut off credit, the markets just didn't function. So Corrigan talked to all of the banks, and told them, "Keep the money flowing." They could have cut off the specialists and the specialists wouldn't have been able to trade. So we covered that part of it. We sort of divided things. Phelan was talking to the Fed and to the White House, and I was talking to all of the Exchanges to keep them apprised as much as I could of what was going on. But nobody really knew. We did some smart things. We stopped the firms from using their automated systems to trade proprietary on the Exchange—they were doing program trading in those days; a lot of program trading was taking, you know, forty million at a shot by just pressing a button. We stopped that.

KD: Did it hit you right off—this must be program trading?

RB: No, no. I didn't think it was program trading, but we just thought we should stop what we could. I don't think we know to this day what caused it. Studies that were done that found out things, like between eleven and twelve o'clock, four institutions sold five billion dollars worth of stock. In those days, we used to trade maybe six billion a day in value and in an hour we had four institutions that sold five billion. Now, I always worried—I made a speech about it—what would happen if all the institutions decided to sell? Well, what would have happened is that the market would have essentially closed. But we didn't close the market because it turned on Tuesday at around midday. Now, if it had gone on all day, I think the market would have been closed. But the funny thing is, the market was already partially closed. I went to a meeting of the New York—we had a committee— some of the top lawyers in the United States were on the committee. We were meeting at night, on Thursday of that week. I walked into the meeting and [Birnbaum whispers] they applauded.

Ridiculous. I didn't do anything. I mean they applauded. They really thought: 'You kept the Exchange open.' But the fact of the matter is that for a lot of the major stocks trading had already been stopped. In other words, we'd stopped trading in general. There was no trading going on. We didn't have to close the Exchange. Probably your top hundred stocks were already not trading. We agreed that, psychologically, closing the Exchange would be a very bad thing to do. It would panic people all over the country. So if we could ostensibly keep it open, it was probably a good thing.

But the best thing that happened was when I was going home Monday night, about eleven o'clock. My driver, who was a tough kid, treated me like I was a moron; he was not respectful in any way. He never got out to open the door. We were going home and the phone rang. He picked up the phone and someone said, "This is Howard Baker, the President's Chief of Staff, I'd like to speak to Mr. Birnbaum." So he handed me the phone, and Howard said, "How's everything, Bob?" I told him, "The machines are running. As far we know, the machines are clearing the trades; everything is operating. What's going to happen tomorrow, I can't tell you." The next day the driver comes to pick me up; he's standing outside the car with the door open. He must have said to himself, 'Birnbaum can't be as dumb as I thought he was, if the President's Chief of Staff is calling him.

Greenspan that day was flying from Washington to Houston to speak at the American Bankers Association. So he leaves Washington, the market is down like—it was huge already: a hundred and fifty points maybe—he gets down there, and he gets out at the airport, and gets into a taxi—market's closed; and he says to the driver, "What did the market do today?" And the driver says, "It's down five-oh-eight." And Greenspan says, "Oh, that's phenomenal. Down five points." The guy says, "Five hundred and eight." He almost had a heart attack.

But the crash, I felt in a way, 'I get paid a lot of money'—more than you should get paid, in a job that, with my background, I don't think is that enormously difficult. I said, 'In these two days, I earned my money for the year. I really earned it. I did something where I earned my money.' And I liked that.

KD: Well, maybe that's why you got the applause.

RB: Maybe.

KD: Is there anything that we haven't covered that you think we should talk about?

RB: No. I haven't thought about it a lot. I'm more interested in my tennis game, let me tell you. But, no; I just think the SEC was a terrific place; had very good people. I'm not intimately involved with them any more, but I meet with them every year because I'm on the Board of the CBOE, and I used to be head of their regulatory oversight committee. I'm still on it, but until this year I was chairman. And so I go meet with the SEC top staff every year. And I can see that they're bright people. But it's so funny—you don't know what's going to happen. Harvey Pitt was probably the most knowledgeable Chairman in the history of the SEC. He comes out as a complete failure, okay? Bill Donaldson and Arthur Levitt become Chairmen; they didn't really know anything about the major issues, but they came out smelling like a rose.

KD: You worked closely with Arthur Levitt, I recall. Did you think he had it in him to be an SEC Chairman?

RB: To be perfectly frank: not in a million years. Except I dismiss him too quickly. I had just gotten married, and still to this day I don't know how he found me. I was at Fire Island at a friend's house; he calls me up—and we didn't stay much in contact—and he says, "I've been offered the Chairmanship of the SEC, and I'd like you to come with me. I'd like to make you General Counsel, and you can run the place from there." I said, "Number one: I'm not even a good lawyer. You can get young, bright guys to be General Counsel. Secondly, I don't want to move to Washington." But Arthur was a very good speaker—very good speaker. And he looks the part. And he handled the press very well. The company CEOs loved him because if they called him, he'd fly there immediately. He didn't spend a lot of time in the office. But now he's an advisor to Carlyle; he's made a lot of money for himself. You've got to give him credit. He knew what to focus on. I never got a memo, a one-sentence memo, from him when I was at the AMEX. People said, when New York hired me, 'Bob, we know you run the place.' They knew Arthur. I said, "Well, don't dismiss him like that. I'm the Chief Operating Officer; I'm supposed to run the place. So don't dismiss him."

KD: Well, it's the big picture person.

RB: He did what he liked to do. He was very effective with what he did. Very effective. He probably got a lot of listings for the Exchange because company guys liked him. When he was with the brokerage house, he was in charge of the salesmen. He used to send them around the country. Sandy Weill wasn't discussing strategy with him.

KD: Well, Richard Grasso didn't do too badly either, did he?

RB: No. I was very friendly with Grasso. He worked for me; he was a terrific worker. He was bright, worked hard. And I didn't like the New York Stock Exchange staff. I didn't think much of them at all. I respected Phelan, and I thought Grasso was terrific; and they had a General Counsel, Hank Poole, I thought was terrific. The rest of the people I didn't think much of. I thought that at the AMEX we had much better people. The guys who worked for me, they all became presidents of companies—terrific. My theory was: you never hire anyone unless he's smarter than you. And some guys—including Grasso—they don't think like that. They want to be the top dog. When I left, he'd take my wife and me to dinner every two months, with his wife. When he resigned, my wife said, "Bob, call Dick." I said, "Why?" She said, "He's liable to kill himself." The Exchange was his life. He never went home. He had four kids, they were small then; and he went out every night with a company guy, member on the floor—he was out every night. He knew what he was doing. And he was a very effective speaker. You could send him to speak to IBM's board, and then you could send him to speak to a bunch of roughnecks from the floor. Perfect—do a perfect job for you.

KD: No one said he didn't work hard.

RB: Well, what happened it's hard to say. It's ludicrous that he made that kind of money. They say, 'Well, our theory: we decided that he should get paid like the head of Merrill Lynch or Goldman." That's nonsense. Because when you're president of the Exchange, you don't have any money up; there's no risk to you whatsoever. Whereas, if you're Lloyd Blankfein of Goldman and Goldman goes under, all your money is gone. I mean it's not going to happen—ninety-nine hundred and ninety-nine out of a thousand—but it's a much different kind of place to run. Do you realize what it is to run an outfit like Goldman Sachs? Oh, my God. He's a very smart guy. I had lunch with him six months ago. Very, very bright guy. Running the Exchange is different. Yes, there are some decisions that are critical, but at

Goldman: it must be one a week there—where they've got money invested, whether they should invest, whether they should go to China, or whether they should go to Russia. Now, if they had offered me that kind of money, would I have turned it down? No.

KD: It would be pretty hard, wouldn't it?

RB: I called Dick up the day it happened. I wrote a letter to him. He never responded to my call or the letter. My son says, "You must have said something." When it happened, all the TV stations called me. CNN wanted to send a limo to bring me in. I turned everybody down. What was I going to say? But I did say something to the *Times*, and I'm sure Dick—he's probably like an elephant—he's like Mayor Koch used to be: never forgets a slight. I forget who insulted me. Who wants to remember that all my life? But they asked me, "What is the New York job going to be like in the future?" They didn't ask me about Dick. I said—and I think I was right—"It's going to be technological, regulatory. It will not be marketing." My son said, "Dick took that as you saying all he was, was marketing." [Birnbaum whispers] Which he was. Yes, he was terrific at it.

KD: Well, I appreciate your talking to me.

RB: You're welcome.