Securities and Exchange Commission Historical Society
Interview of Lynn E. Turner
with Lucy Harvey on February 10, 2020

Lucy Harvey: Hello. I'm Lucy Harvey. I'm here with former Chief Accountant of the SEC, Lynn Turner. We're doing an oral history for the Securities and Exchange Commission Historical Society on the founding of the Public Company Accounting Oversight Board. We are here in Washington DC. It is Monday, February 10th 2020.

Lucy Harvey: Lynn, thanks for joining me this morning.

Lynn Turner: Good to be here, Lucy. Thank you for inviting me.

Lucy Harvey: Lynn, this is your second oral history for the Society. The first one you did was June 16, 2005, and that one focused on your early career at Coopers & Lybrand, your time as an SEC accounting fellow, and your time as the Chief Accountant at the SEC.

Lucy Harvey: This history, it's going to focus on how you helped to structure what became Sarbanes Oxley and how you helped to establish the PCAOB. I'm first going to ask you about 1991 during your tenure as the SEC accounting fellow and you would help then to begin writing legislation that would regulate the audit profession. Describe a little bit about that.

Lynn Turner: There were some issues the Commission as well as Congress had with the accounting profession at that point in time, had had for a number of years. The House Committee that oversaw the SEC at the time -- the Commerce Committee -- was chaired by Congressman Jack Dingell from Michigan, and he called the staff up to the Hill to have a meeting with the leadership of the accounting profession to talk about what needed to be done. Myself and the general counsel from the Chief Accountant's office, Robert Burns went up to meet with the congressional staff including Consuela Washington who was chief counsel to Jack Dingell and the Committee at the time, staff from Representative Wyden's office, Representative Markey's office, and leadership for the profession were all there.

Lynn Turner: We had a discussion. As a result of that discussion, the profession wasn't excited about further regulation, but Consuela Washington asked Robert Burns to draft legislation which we did. It was what became Section 10A of the Securities Act that laid out specific things that auditors had to do and legislated that so in a way, it was a forerunner for what would come later on about 10 years later on when Enron's and WorldCom's blew up.

Lucy Harvey: The next time that you got involved in regulation of audit firms was when you were then Chief Accountant. Fast forward for us into 1998 and describe that scene for us.

Lynn Turner: By 1998, corporate scandals had started to evolve. There were situations like Cendant and others that had come to light. The chairman of the SEC at the time was out speaking about… That was Arthur Levitt. There was clearly an issue with audits and the quality of audits I came in as the Chief Accountant in July of ’98, and Chairman Levitt had wanted to do a major public policy address. Right off the bat, that was really the first thing that I became involved with as chief account, and it was to come up with the program to deal with the issues that the Commission was seeing with the quality of audits.

Lucy Harvey: You talked a little bit about the famous number speech that you helped to write.

Lynn Turner: Yes, the numbers game speech that Chairman Levitt gave. It was probably one of the best-known speeches coming out of the Commission. Certainly, it was probably the widest distributed speech. Became quite the topic, was on the front page of many of the newspapers. It set forth the nine-point program. Part of it would be done by the Commission and the staff. Part of it would be done by the accounting regulator. The [inaudible 00:05:04] part by the American Institute of CPAs and their various bodies, and then we also set up a couple commissions or committees to look at issues, one of which became known as the O'Malley Panel which a couple of years later in August of 2000 would issue a report with a number of significant recommendations on how to redo the regulatory oversight of the profession.

Lucy Harvey: Also with this time, Chairman Levitt wanted to make major ruling on auditor independence.

Lynn Turner: Yes. Within two weeks of when I became Chief Accountant, the SEC staff came into my office with an anonymous letter that had been sent by someone to our Miami office. It discussed a number of extremely disturbing issues with respect to PricewaterhouseCoopers and auditors’ independence involving one of their offices in Florida but also describing that it was a broader problem, if you will, in terms of auditor independence. That led to a major SEC enforcement action against PWC that, I believe, first got issued in January of 1999.

Lynn Turner: Over the course of that investigation and project, we found thousands 8,000 to 10,000 auditor violations just within PWC, gave us a pretty good indication that there were other problems that other firms in the profession, not to pick on PWC because I certainly don't think they were any different than any of the rest of them. As that move forward, it went on and on. We decided that we really did need to redo the auditor independence rules at the Commission. They had first been written in 1933, the year before the SEC even came into being by the Federal Trade Commission, and there had been no complete top-to-bottom update from 33 to 99.

Lynn Turner: In January of 2000 in San Diego at a major SEC conference actually chaired, I think, by former Commissioner David Ruder. I went out and did a major speech that announced that we were going to go into rulemaking. I remember that speech very well because right after it, David Ruder came up to me and he said, “Whoa! This is going to be big.” It probably turned out be bigger than what most people thought at the time.

Lucy Harvey: Also, were some of the firms interested in finding a path to sell their consulting practices?

Lynn Turner: There were. In fact, again, right after I got to the Commission August of 1998 KPMG had approached us trying to find a pathway to dispose or sell a portion is probably a better way to put it at that point in time. They wanted to sell a portion of their consulting practice to Cisco and wanted to find a path for doing that. They came in and started to talk to us.

Lynn Turner: The next one to come in would be Ernst & Young and their CEO Phil Laskawy and his general counsel. We began conversations with them. Initially, PricewaterhouseCoopers was adamant that they didn't want to do that and opposed any such move. In fact, Harvey Goldsmith, who is General Counsel who would later become a commissioner and embroiled in the PCAOB establishment, Harvey and I met with PWC at LaGuardia Airport in December of ‘98, at which time PWC expressed that there was no way that they would ever support the firms spinning off or selling their consulting practices. That was most fascinating because once the SEC enforcement action hit the press that I mentioned to you before, they had a number of large companies that they audited. Some of the biggest come to them and says result of that enforcement action or lack of independence, they were considering changing or switching auditors.

Lynn Turner: In the middle of February ’99, Arthur and I got a call from PWC, a very urgent call saying that the leadership of that firm needed to meet with us which we did do in Arthur's conference room in Washington DC. They said, “As result of the fallout from that day, we’re going to announce publicly,” and in fact, ran off a full-page ad inside the front section of the Wall Street Journal announcing that they decided it was the right thing to do to get rid of consulting. Keep in mind this is just like less than two months after they told us over their dead body would they ever do this, but the pressure was so high on them as the result of the enforcement action that they decided to do that and later on would do it in that Wall Street Journal article. They actually said, “Getting rid of the consulting was the right thing to do as an audit firm.”

Lucy Harvey: Now, you're in the mindset that you want to get the profession to accept the O’Malley Panel recommendation so describe that effort.

Lynn Turner: We had, as part of the numbers game speech, agreed to set up this panel of 9 to 10 people chaired by the former PWC CEO Shaun O'Malley to look at the effectiveness of audits and the quality of audits. They really got into that by early 1999, worked on that were headed and came out with recommendations in August

	2000. That’s the same time that that is occurring. We are also talking to a number of large firms about spinning off their consulting practices. We mentioned KPMG. We mentioned PricewaterhouseCoopers.
Lynn Turner:	Ernst & Young, we spent considerable time with them, and that became extremely important because when Phil Laskawy called us up at the Commission, called Arthur and asked, “Would we negotiate a pathway for them to be able to sell their consulting practice?" which they ultimately did to a firm out of Europe called Capgemini, we asked something in return and that was for Phil and his General Counsel Catherine to work with us drafting legislation that would create a better regulatory framework for the auditing profession especially if they're all going to be selling their consulting practice.
Lynn Turner:	As we had those discussions with Phil during ‘99 end of 2000, we went back and picked up a piece of legislation that had initially been drafted and introduced during the latter half in ‘70s in the Moss and Metcalf committees in Congress. Then it had been picked back up by Congressman Markey in ‘95 as Congress worked on the Private Securities Litigation Reform Act or PSLRA. It was discussed by Congress then but ultimately didn't make them to PSLRA Section 10 of the Securities Act, had gotten in but not legislation actually creating a regulatory body.
Lynn Turner:	Phil worked with us on drafting a new regulatory framework that was legislative and got it moved fairly far along but never completed it, never thought it would go anyplace. This is happening at the same time as the O'Malley Panel recommendations are being drafted. We’re intimately involved with that.
Lynn Turner:	Shaun and his committee which included former SEC Commissioner Bevis Longstreth come out with their recommendations in 2000. This is why we’re also doing all the revision of the auditor independence rule, so it’s a busy time at the Commission. We thought the O'Malley Panel had some good recommendations, so we went to each of the five major firms at the time and discussed with them the possibility of putting those recommendations in place. We got an agreement of all of the firms but one. Deloitte & Touche, I remember calling their CEO at the time and he referred me. He said that decision as to whether we would or would not agree to that will be made actually by a partner who is a former SEC Stafford who had been a professional accounting fellow, [Bob Kipper 00:16:20], a wonderful guy.
Lynn Turner:	I can't talk to Bob and Bob said that their firm couldn't agree to the O'Malley Panel recommendations that the changes in the regulation including how auditing standards would be set, the power of the oversight board. We were going to try to keep the then existing public oversight board. We thought that was a good vehicle that we needed to make modifications but not start over from scratch. Like I said, four of the five agreed, but the Deloitte would not agree to it. This is towards the

end of 2000 just as we're coming to the conclusion of the auditor independence rulemaking.

Lynn Turner: Deloitte had vehemently opposed us on that. Deloitte wanted to keep their consulting practice. They were the only firm that was keeping their consulting practice. All the others had decided to spin them off or dispose of them somehow. I think the other firms were in a position to agree, but Deloitte, the one who would not ever sell off their consulting practice, the only one opposed it. That made it difficult to see the road forward at that point in time as to what was going to happen.

Lucy Harvey: Then we have the November 2000 election, Bush is elected. Arthur Levitt announced that he is leaving and you make a decision to leave. What's happening then?

Lynn Turner: We're continuing to see issues with the auditing profession. We had a major SEC enforcement action ongoing inside the Commission with respect to a company called Waste Management for auditors Arthur Andersen. We would eventually bring fraud charges against Andersen in July of 2001. As part of that enforcement action, we got an injunction against Arthur Andersen in which they agreed never to do that again and never to commit fraud, and that got filed with the court in July, I believe, of 2001 just a month before I was going to leave. Just about a month before, Andersen would, in essence, violate that injunction again with their audit of Enron.

Lynn Turner: It was the Waste Management enforcement action that then gave the Department of Justice the basis for going after Andersen and Enron so still having all these problems with the quality of audits and concerns about whether or not there needed to be some revised or new regulatory structure put in place. That would then come back to the forefront at that November 2001 SEC issues conference that was here in Washington DC.

Lucy Harvey: Let me take a minute. You've left…

Lynn Turner: Yes.

Lucy Harvey: You've left the Commission in August 2001.

Lynn Turner: That's correct.

Lucy Harvey: What happens three weeks after you leave Washington DC?

Lynn Turner: 9/11 hits, most unfortunate situation. It creates a whole new environment for the country needless to say. Of course, Harvey Pitt is coming in is as the new SEC commissioner.

Lynn Turner: Harvey had been very closely aligned with the accounting firms. He had been their outside legal counsel on a number of issues. He had put together a document on auditors independence that was submitted to the then Independence Standards Board or ISB just before I became Chief Accountant in which he espoused the view that the SEC needed to "lighten" up on the rules.

Lynn Turner: Shortly after we left, I actually had a lunch with Harvey Pitt. Just before I left the Commission, Harvey and I talked quite extensively about the auditing profession. I think Harvey agreed that there needed to be some reforms, but because Arthur and I had battled so much over independence and the corporate scandals with the profession, he wanted to see if he could find a way to get the profession to come around and agree with him on some of this stuff which was, I think, not a bad idea if he could do it.

Lynn Turner: He went out and did a major speech in October of 2001 that got discussed a lot in the New York Times in which Harvey went and said the SEC needed to be friendlier with the auditing profession. I'm not sure that the press fully understood what Harvey was trying to get out at that point in time, but it definitely came out the wrong way in the media. That was October then the November conference.

Lucy Harvey: Enron hits October 15th, right?

Lynn Turner: Yes. There's a major conference call. There's an earnings conference call that Enron has in August that doesn't go well. Jeff Skilling leaves as president of Enron and then Kenneth Lay the founder steps back in as CEO and chairman. Andy Fastow CFO is on that phone call in October, and it goes extremely terrible. There's two major investment funds a Highfields and [inaudible 00:23:07]. They get on the phone and highlight the problems with Enron and that it's kind of a shell game and a sham, goes horribly wrong, and then everything starts to go south very quickly.

Lynn Turner: In fact, from the middle of October to the end of the first week in December so less than two months before, was the seventh largest company in the United States is in bankruptcy. In between that from October to December is the SEC Major Issues Conference that Senator Sarbanes and myself were both speaking at, and we actually get together then after we both spoken at that conference.

Lucy Harvey: Okay. They started to talk to you and said, "What are we going to do about this?" right?

Lynn Turner: Yes. Senator Sarbanes, the night after dinner at that conference, and I speak along with his staff, Chief of Staff and Senate Banking Committee Steve Harris. Senator Sarbanes asked if I would help them set up a series of hearings, help with drafting legislation which I agreed to do. I mentioned to Sarbanes that there had been this legislation that it had been drafted in late '70s, '77, '78 that Congressman Markey had worked on in '95 that we had worked on with Ernst & Young while I was at the Commission and that I could provide a good basis for where we may want to go.

Lynn Turner: He was aware of that. From that point forward then, I went back home in response to the Senator's request, had further phone calls with Steve Harris who was marvelous to work with. We set up 10 days of hearings, and we mapped out the topics, who we'd get as speakers. I started taking the old legislation that I'd seen while I was at the Commission taking that and working on crafting that and turning it into a piece of legislation that could actually be introduced by someone, and worked on that throughout November and December. I circulated it to five people that I considered to be very knowledgeable in this area.

Lynn Turner: Former deputy Chief Accountant mine, Jane Adams, the SEC Chief Accountant before me who had also run the national office at Deloitte, Mike Sutton, Bevis Longstreth, a partner at Debevoise & Plimpton who had been an SEC commissioner under Reagan, Charles Bowsher who had, for 15 years, been the Reagan-appointed Comptroller at US head of the GAO and was then current chairman of the Public Oversight Board, and finally Harvey Goldsmith, law professor at Columbia who had also been an SEC General Counsel and was soon to be again an SEC commissioner at the time frame the PCAOB Public Company Accounting Oversight Board was initially created sent the draft legislation out to all of them, got comments back from them, some great comments.

Lynn Turner: I remember comments back from Harvey Goldsmith on the section that set fines and penalties and Harvey had me change that to pretty much exactly as it is in the final SOX legislation so that was a useful process.

Lynn Turner: There were hearings starting in December on Enron and then in January, all of a sudden that switched in for the first time the Senate started to hold hearings on Enron as well as the scandal just erupted.

Lucy Harvey: Did you get calls from other Congressional offices who were saying, "Can you help us with legislation?"

Lynn Turner: I did. The first one to call was Senator Richard Dick Durbin from Illinois. He had a staff person who was marvelous by the name of Jimmy Williams. They called and asked if I could help them in any way with legislation and… By the way, I had this piece of draft legislation by then, and so I shared it with them and then they started to work very hard on it right off the bat once they got it. They gave it to the legislative drafting counsel over in the Senate, a lady by the name of Laura [Ayude 00:28:25] who was absolutely marvelous. Jimmy and Laura and I spent time on the telephone going through the draft, and what came out of that was a piece of legislation that Dick Durbin could carry around to other senators looking for a cosponsor and/or introduce. Durbin wasn't on the Senate Banking Committee who would have jurisdiction, so it would be tough for him to get anything introduced.

Lynn Turner: About a month after he called, then I got a call from the staff of Senator Dodd from Connecticut and Corzine from New Jersey and their staff and Alex Sternhell and Roger Hollingsworth. Roger and Alex asked if I had a piece of legislation they could use to work with and it was like, "Oh, by the way, can we have this piece, and Laura has it." Then I started to work with them on Senator Durbin's piece. It had a provision calling for mandatory auditor rotation.

Lynn Turner: Senator Dodd couldn't support that because the number of the CEOs of the big firms were in his state vehemently opposed it. They took it, re-crafted that, they asked me… In fact, I remember the call very well because I was driving home from Colorado State University where I worked, and they asked if I could come up with legislation or language on auditor independence that could replace the mandatory rotation. They had liked what Arthur and I proposed to the Commission a year earlier in this regard.

Lynn Turner: I went back and we lifted the original SEC proposal on auditor independence from 2000 and put it in word for word into the draft to SOX, and that is word for word how it eventually came out in Sarbanes-Oxley. It was directly from that original 2000 proposal. We put that in and got the legislation done. Senator Dodd and Corzine got two or three other cosponsors on the bill. They then introduced that into the Senate Banking Committee, I think, somewhat to the consternation of Senator Sarbanes and Steve Harris because they had hoped that the fellow Democratic senators on the Senate Banking Committee would wait until they got further along with the 10 days of hearings which commenced in the first week or so of February and went through March of 2002 but nonetheless it got introduced with…

Lynn Turner: I had also gotten calls from Congressman LaFalce from upstate New York in the house who is a ranking member on the House Financial Services Committee. He wanted to come up with something, ask for help. Congressman Dingell who is chairing the Commerce Committee at the time wanted to come up with something, a representative from Denver who I knew very well from my home state by the name of Diana DeGette wanted to do something.

Lynn Turner: I came back and met with them in and their staff and came up with legislation that they all introduced over in the house. Although they were in the minority, so whatever is going to happen in the House ultimately wouldn't come from them. It would come from Congressman Michael Oxley who is working with the SEC chairman [inaudible 00:32:36] profession to come up with a lighter touch, if you will, consistent somewhat with the O'Malley Panel recommendations, whereas the Senate version that we had drafted had moved beyond the O'Malley Panel recommendations and the draft that Senator Durbin had and Senator Jon Corzine and their cosponsors had get away, in essence, with the O'Malley Panel recommendations. They got set to a side and it created a whole brand-new Public Company Accounting Oversight Board. It's going down to a much different path in the Senate versus the lighter touch in the House if you will.

Lucy Harvey: Senator Sarbanes was still not asking you for legislation. They were really waiting until the hearings went through and they could learn all that they wanted to and then they were going to jump in, right?

Lynn Turner: Yes. I think that was a sound game plan. We could have draft legislation, but as we went through the 10 days of hearings, the last day at the end of March was to be Harvey Pitt and provide him an opportunity to speak what he thought should be done, his lighter-touch approach. With Senators Dodd and Corzine introducing it kind of threw a wrench in it if you will.

Lynn Turner: Now, Senator Sarbanes didn't introduce anything, and in fact, at some point in time probably later on in February. I do get a call from Arthur Levitt and then I think Steve Harris about legislation. At that point in time, then provided a copy of the legislation to Steve and the Committee staff who were top notch. They had a great team put together working on it. By that point in time, they had Gary Gensler, former Deputy Secretary of Treasury who had worked a lot on Wall Street involve… Gary is just so astute. They have Chuck Bowsher that they're working with, again, Comptroller of the US. They have Stanley Sporkin, the former director of enforcement at the SEC involved.

Lynn Turner: They’re really helping get through a lot more of the hearings and then start drafting but with this Dodd-Corzine Bill gets introduced, then their pressure is on them to go do something. We give them a draft. I actually did reach out to anyone to give him a draft. I just waited for the phone calls to come in and then I would deliver the draft and Sarbanes and Harris knew back from the November discussion that I had a draft, but they hadn't looked for it yet because the process we’re going through. When they do ask for it, we give them a copy. By that point in time, it’s gone through a number of iterations or drafting with Laura Ayude, the person who ultimately would be the staff person in the Congressional staff who would draft and approve the draft. They reached out to her, worked with her on it, and then we’re going through the hearings. We’re hearing more and the legislation starts to get built out and additional pieces get attached to it.

Lucy Harvey: Some of the people you said they were also working with were Marty Gruenberg and Steve Kroll.

Lynn Turner: Yes. The Senate Banking Committee staff were really top-notch. Marty Gruenberg, you might recognize as a subsequent to all of this. He becomes a board member and then chair of the FDIC. Steve Kroll, top-notch would eventually join the staff of the PCAOB several years later.

Lucy Harvey: Dean?

Lynn Turner: Dean Shahinian was… Dean might have actually been the best of all the staff. He was… People like Dean. He had been around for other major pieces of legislation like [inaudible 00:37:18], as had Steve Harris. These people had gone through this process and seen really how to do a successful piece of legislation. The country was just quite frankly very fortunate to have had all of them there at one place along with all the outside help that got put into it.

Lucy Harvey: Now, you're telling me they started to circulate it in the middle of April, but Sarbanes wants to make sure that he gets some votes. Describe that.

Lynn Turner: Yes. They do start to circulate it and circulate it broadly. It wasn't something they tried to hide from people so a lot of people had it. Senator Sarbanes wanted to take it to a vote in the Committee before Memorial Day at the end of May. When he starts talking to the fellow senators on the Committee, finds two at the Democrats aren't supportive, Senator Birch Bayh and Zell Miller from Georgia. He definitely has to pick up their votes, and they both want some modifications. Evan Bayh wanted something that would give…

Lucy Harvey: Birch Bayh, his dad.

Lynn Turner: Birch Bayh, yes, excuse me so Bayh wants a provision in the bill that would allow the PCAOB to exempt audit firms from auditor independence rules which seem to be a little strange. Zell Miller wanted the same and some other modifications could easily be done. They wanted an auditor independence so it's a little bit tougher and really inconsistent with why we have audits to start with.

Lynn Turner: I was speaking to the Alberta Securities Commission at that point in time up in Canada. I remember it was in the hotel up there when I got the call. I told the staff -- Shahinian and Kroll and Steve Harris were all on the phone call. I told Mike that we could do something consistent with what was already in the securities laws, use the same type of language and gave the Commission the ability to exempt on a case-by-case basis if it did a finding that it was in the public interest. They could demonstrate that. They went through a formal process to reach that conclusion on a case-by-case, not wholesale, broad exemptive then that could work because that language already was in the laws for SEC to do. We put that language in, picked up both Senators' votes.

Lynn Turner: Senator Sarbanes had announced he was going to go to a vote in the Senate Banking Committee before Memorial Day, had to delay it to pick up their votes and work out the differences. We had that done over that weekend. The following week, Senator Sarbanes said he brings SOX to a vote at the Senate Banking Committee.

Lucy Harvey: Then he wants to pick up some Republican votes, right?

Lynn Turner: Yes Senator Enzi who had been negotiating on behalf of the auditing profession, he was an account from Gillette, Wyoming. He was negotiating for the auditing firms and profession came and told Senator Sarbanes that he thought he could get four Republican votes if Senator Sarbanes would agree to a number of amendments to what have been drafted.

Lynn Turner: One of those was huge, a big-ticket item. Again, I was speaking to a group of Hewlett-Packard financial executives in Monterey, California when I got a call from Senator Sarbanes in the morning and Steve Harris. He said that what Enzi wanted was a change to the procedures for enforcement actions against the auditing firm. Those actions are done in the public domain, a public setting at the SEC. They are called Rule 102(e) proceedings and it's all done publicly. The Commission had been doing that for decades. Senator Enzi and the auditing profession didn't like that, and so they pushed Sarbanes to agree to allow the PCAOB to keep those all under wraps and private. That's why Sarbanes had called me that morning. I pleaded with him not to do that. I said especially in light of what was happening, how the SEC did it, that was bad policy and bad precedence.

Lynn Turner: He also called Harvey Goldsmith that same morning, who would help me with the drafting earlier on, and asked Harvey, and Harvey and I talked about it afterwards. Harvey had pleaded with him again not to do it, but Senator Sarbanes really, really wanted those four Republican votes and gave Enzi what Enzi was asking for. That has been a terrible decision, terrible outcome and policy. Congress is still trying to walk that back to this day and has allowed the firms to hide behind that shield of darkness if you will when they've done bad things on an audit.

Lucy Harvey: Now, Senator Daschle is thinking he's going to bring this to the Senate but doesn’t exactly know when. He thinks he's going to put it off until June, right?

Lynn Turner: Actually, until September.

Lucy Harvey: Right.

Lynn Turner: Senator Daschle, who is the Senate leader at the time, we’d gotten it passed. It had been marked up in the vote, taken in the Senate Banking Committee. They actually ended up getting, I believe, six votes on the Republican side instead of four and so very bipartisan, but Daschle tells us he doesn't think he’ll bring it to a vote until September after the summer recess.

Lynn Turner: The reason for that is that, in April of 2002, Congressman Oxley and the House Financial Services Committee had passed legislation that is the very much lighter touch, more the O'Malley Panel type approach to regulation. Daschle doesn’t know if he'd be able to pick up enough votes in Congress to get the Sarbanes-style legislation through. As I recall, he said he could get us some 70 votes or something, but wasn't sure. The game plan at that point in time is not to bring it back to the vote of the whole Senate until after the summer recess end of September.

Lucy Harvey: You go fishing?

Lynn Turner: Absolutely. My time for an annual fishing trip on the Green River with a bunch of former SEC staff. We do it each year and a great group of guys and trip. I remember it clearly because I've gone… I'm thinking nothing is going to happen; good time to go fishing. We're up in the mountains on a Wednesday middle of July, I'm driving back from the Green River in Utah.

Lucy Harvey: It's June?

Lynn Turner: Actually, it is July. It's the middle part of July when I come back because… or no, maybe you're right.

Lucy Harvey: June 25^{th}?

Lynn Turner: Okay, then you're right. We come back and I'm driving out the mountains, don't have cell phone service until we break into an open area along one of the major interstates. Then all of a sudden my phone just starts bing, bing, bing, just binging. I can't figure out what's wrong with my phone the way it's binging and pick it up and take a phone call and learn that WorldCom has broke that morning, and that changed everything as far as this legislation is concerned.

Lynn Turner: At that point in time, with WorldCom blowing up, the President has gone out and said, "I want legislation on my desk by the end of July. I don't want this to linger." It gives an impetus for Daschle to bring it to a vote in the Senate and debate on the floor of the Senate, which he does, and what becomes the Sarbanes-Oxley Act overwhelmingly gets approved after having amendments made to bring in all the heavy-duty penalties for violating the laws; there's other sections added on, and voila!

Lynn Turner: At that point in time, we now have the full Sarbanes-Oxley bill for the most part in the Senate, a dramatically different bill out of the House, and the two go to conference. As a result of WorldCom, which if we had known earlier about by Memorial Day, then we wouldn't have to negotiate with Enzi. Because of WorldCom, there's just a huge outcry amongst the public to go do something, and something very significant.

Lynn Turner: The House and the Senate set up a conference committee. The Senate then decided they were not going to accept Oxley's Bill. They thought there was enough public sentiment not to go that route, that they could stand their ground not accept amendments. In fact, there were 52 amendments that were submitted to the House-Senate Conference Committee from all walks of life -- from the auditing profession, the Chamber of Commerce, even the British Embassy had submitted an amendment they wanted made. In the end, really none of those amendments got made, nothing of substance.

Lynn Turner: The Senate stood its ground and held its ground. Oxley had not yet given in, so the Democrats towards the last week of July had decided to have a big rally on the steps of the House Office buildings. All the major media was there for that. The night before that happened Oxley called Sarbanes late in the night/early in the morning and agreed to accept Senator Sarbanes' version of the bill and did ask if his name could be on it, and hence that's how we got the name Sarbanes-Oxley. Senator Sarbanes was quite the gentleman in that respect. It passed and the president signed it.

Lucy Harvey: Now, the clock is ticking and the SEC has 90 days to name the first board members of the PCAOB. Describe that process, to find board members.

Lynn Turner: The concept in Sarbanes-Oxley and certainly this is spelled out in all language is that there would be board members picked to have tremendous reputations beyond reproach who had quite a track record of serving the public, who had a knowledge of auditing and auditing profession. That's what we're looking for, how you picked them had changed during the drafting process.

Lynn Turner: Initially, it was designed to avoid the politics and use bipartisan, if you will, type of people to pick him like the GAO not going to part of the administration because then you got into politics which I didn't think would work very well. During the Senate Banking Committee drafting process, that got changed to make it the SEC Treasury Department-fed. By this point in time, you're very much so into politics and ideology, and that's what got into the final bill.

Lynn Turner: The Commission starts to go out and look for someone. They approach Paul Volcker. Paul turns them down probably because Paul had been one of three people that had agreed with Arthur Andersen in February of 2002 to set up an advisory committee, monitoring committee, to Arthur Andersen when they got in trouble hopefully to help keep them from going under. Paul and the other two former CEO of [inaudible 00:53:16] Charles Bowsher had entered into a contract with Arthur Andersen.

Lynn Turner: Andersen had asked Arthur Levitt to do it. Arthur and I had talked about it just before we testify at the first Senate hearing in January. I had advised Arthur that we shouldn't do it because I didn't think Andersen would really agree to do what any such committee asked him to do. In fact, even though Volcker had a contract, Andersen reneged on that contract, so I can certainly see why Paul wouldn't want to be involved with the auditing profession right after that. Then they had to go find someone and they reached out and approached the chairman of TIAA-CREF, one largest asset managers in the country at that point in time with all the retirement funds of many of the teachers and…

Lucy Harvey: That was John Biggs?

Lynn Turner: John Biggs, yes. They reached out to John and Harvey Goldsmith and Harvey Pitt and their Chief Accountant at the time, Robert Herman, flew to New York to meet with John and see if he'd be willing to take it. As Goldsmith told me, the offer was made to John to take the job. John agreed that he would be willing to take it up, but he had to have a little time to notify his board and then allow for transition which was acceptable, and everyone went home from that.

Lynn Turner: When they got back to Washington, Biggs didn't necessarily go over well with other commissioners or Republicans. John was a Democrat, very knowledgeable, extremely well-liked, on the Business Roundtable where he was a member, but he was a Democrat. Also, while CEO of TIAA-CREF, he had instituted a mandatory rotation-type requirement much like what had gone into the first draft of SOX and other firms hated that.

Lynn Turner: As certain people became aware of that, they then immediately launched an attempt to push Biggs out and go with someone else. By that point in time, the political process was starting to take over and there was a conversation between a former commissioner, a commissioner at that point in time, and one of the former legislative councils in the Office of the Chairman of the Commission. That staffer recommended the name of a former FBI director by the name of William Webster. The then commissioner took that up and ran with it. The Republicans on the SEC agreed to Webster.

Lynn Turner: Webster had told the Chief Accountant of the Commission of a problem he had had with a company he had been the chair of the audit committee, US Technologies, that was under investigation for the FBI for fraud. Webster had fired the auditors who had been asking for more information. That information was withheld from the two Democratic commissioners, and in fact, then there would be the five initial people appointed to the board. The two Democratic commissioners would not find out who all five were and tell the morning of the vote in October of 2002 close to the end of October is when they finally take the vote.

Lynn Turner: I know the information was withheld because I get a call from the Wall Street Journal reporter who has talked to the chairman's office. He's been told who they're going to be the night before the vote. I talked to two Democratic commissioners and they indeed confirmed they didn't know until they picked up the Wall Street Journal article by that gentleman the next morning and find out who the final vote is. The vote is taken and it's a 3-2 vote, if you will, with the three Republicans on one side, two Dems on the other side in favor of the five board members. That's, I think, on a Thursday.

Lynn Turner: On the following Monday, New York Times reporter, Steve Lebaton, who had actually written earlier articles suggesting that John Biggs and been offered the job. It was that press article that had caused Harvey Pitt a lot of problems with his fellow commissioners.

Lynn Turner: Steve, on Monday after Webster had been appointed, called up William Webster and asking for an interview which he kindly agreed to do, and Steve went over and interviewed him on Tuesday. That's when Leveton finds out about the problems that US Technology and Webster's role in all of that.

Lynn Turner: Steve writes it up in an article that comes out, I think, it's a Thursday; it's Halloween day. I'm actually speaking at a huge accounting profession conference in Las Vegas. At 4:30 in the morning in my hotel, my phone starts to ring off the hook. Its people from the East Coast calling to tell me about this New York Times article, at that point in time, by Steve Lebaton and William Webster. I get up by 7:30, the paper gets delivered to us in Vegas, and it's simply an incredible story and just implodes.

Lynn Turner: Almost immediately, Senator Sarbanes, Senator John McCain, as well as others then turn around and call for Harvey Pitt to step down, resign, call from William Webster to be replaced. He resigns almost immediate, and it was unfortunate for Webster who had a fantastic public service record. He'd told the SEC, had been expressed concern about it; they ignored it. They didn't tell their fellow commissioners. As a result, there would later on be an investigative report by the GAO, the General Accounting Office at the time that was not kind to the SEC for the flawed process they had gone through in selecting the initial board members and withholding up very, very significant information from members of the Commission. As a result of that, Harvey Pitt did resign then the morning of the election in 2002 which got a lot of attention in light of all that transpired.

Lynn Turner: It was a terrible, terrible start for the PCAOB probably a start that became very, very political and something I don't think that the PCAOB, to this date, has been able to get out from underneath the clout of.

Lucy Harvey: The PCAOB does have to start operating though and they make a serious of critical decisions. Tell me how you feel about the decisions that they made.

Lynn Turner: They did have to make some critical decisions. One was would they write their own standards or is the O'Malley Panel recommended continue and let the profession draft and rely upon that.

Lynn Turner: At the time, myself and two other former SEC commissioners, Walter Schuetze who would run the national office of KPMG; Mike Sutton, who had run the national office of Deloitte & Touche and myself, all three of us joined together on a letter that we wrote to the PCAOB urging the PCAOB to write and do their own standards. It was inconsistent given what had transpired with legislation, Oxley versus Sarbanes. Congress had decided on Sarbanes which gave the PCAOB the ability to write their own standards. It seemed highly; it was very inconsistent that the PCAOB would look to the profession rather writing their own standards, so I think they made the right decision absolutely to do their own standards. We'll see if that continues, but that has been a good decision. They followed through on.

Lynn Turner: Another key decision was around the area of transparency. In that regards, the board itself took a vote in which they adopted a policy of not telling the public what audits they had inspected. When they inspected the audits and in fact, found significant problems and wrote them up in their inspection report, they refused to tell the public who the company was which hides very important information from investors who are, in many instances, required to vote once every year on whether or not to reappoint the auditor.

Lynn Turner: Even though the PCAOB does inspections and finds very significant problems, the PCAOB won't tell those people ahead of their vote that, in fact, there's been significant problems with the audit. That was a terrible decision on the part of the PCAOB. Keeping that confidential is in no way required by SOX for a number of years. The PCAOB came out and said, “It’s required by SOX,” but after they were called on the carpet for that. They then admitted that, in fact, it was their own internal policy that they had adopted.

Lynn Turner: As a result, there's been legislation introduced on both the Senate and House side that would make the audit enforcement actions investigations all public, and that would then lead to the inspections becoming public as well, I believe. We still have to see that issue run its entire course.

Lucy Harvey: Advisory groups?

Lynn Turner: Yes. On advisory groups, SOX gives the PCAOB the ability to set up advisory groups. Initially, they set up two, one that is publicly known and one that is not known to the public kind of hit if you will.

Lynn Turner: The public one was called the Standing Advisory Group or SAG. It start out probably too big to really be good. It had like about 30 people and then over the years, evolved to like 40 some people. There were issues in that all of the largest audit firms were given permanent seats, but second-tier or smaller firms weren’t given a voice at the table; that didn't seem fair.

Lynn Turner: With 40 some people around the table, if you had a one-day meeting, no one had a real opportunity to provide serious input and thoughtful input and have a discussion debate. That group, over time, the effectiveness of that group was probably greatly diminished. Then in 2010-2011, the PCAOB set up a second advisory group, I think, to somewhat counter the SAG. That was the Investor Advisory Group or IAG. It had more of the investor types on it. Representative investor-type organizations were on it. That provided input, again, once a year. Not all that often but they did provide input. I'm not sure the PCAOB acted that much on their advice. They did ask for the audit report to be redone but in a different fashion than it was ultimately done. They asked for other things to be done that were never done, so the effectiveness of the advisory groups here and there but probably not what they could have been over time.

Lynn Turner: I think we've seen the business community and the auditing firms pushed to eliminate the Investor Advisory Group. I suspect that that's certainly a possibility at this point in time. The chamber has been pushing and asking for it to be eliminated but continue to allow the business community and auditing firms to have a voice.

Lynn Turner: The other advisory group which was private and confidential was another group of individuals such as Chuck Bowsher, professor from Texas; Bill Kenney, who the PCAOB board members met with in private. Meetings were never announced publicly and no public agenda, and that was certainly set up initially, but in recent years, for most purpose, gone out of business. It was interesting that it was set up though and kept so confidential in the early years. That was a key decision on how to operate with advisory boards up front.

Lucy Harvey: Then how about the way that the SEC would oversee the PCAOB?

Lynn Turner: Yes, so in SOX, there is language and it was anticipated that the SEC would oversee it much like they oversee FINRA. The Commission delegated that oversight to the Office of the Chief Accountant. The Office of the Chief Accountant certainly, the Chief Accountant, the deputy Chief Accountants have been captured by the big four to where now staff and partners roll into that office in those positions from the SEC and then are typically returning back to their firms.

Lynn Turner: The very people that PCAOB was set up to regulate are now regulating and overseeing the PCAOB. That has created a tremendous amount of stress and distrust and a friction that really prevents the process from working the way it should. Early on when the PCAOB was initially established, the Office of the Chief Accountant was sending over professional accounting fellows who would come from the firms. It was known they'd be there at the SEC for two years and rotate back to their firms.

Lynn Turner: SEC's Chief Account Office was sending those auditors to the PCAOB to oversee it. A couple of the members of the PCAOB vehemently disliked that rightfully so. As a result of that, the really first chairman of the PCAOB, Bill McDonough, had been head of the New York Fed, quite a reputable person, went to the SEC Chairman Bill Donaldson and said, "This doesn't work," and so Donaldson agreed not to do that.

Lynn Turner: Unfortunately, when Donaldson left shortly after… Donaldson left then McDonough left. The PCAOB new SEC Chairman, new PCAOB chair come in and the new ones revert back to the old policy at the beginning, and it just hasn't worked. There's been this friction, inability to get along, and I think most that's probably driven by the Office of the Chief Accountant who is not regulating it. The PCAOB, I don't think like FINRA, has regulated it with an extremely heavy hand. As a result, I think the Chief Accountant's Office has been able to block things that some members of the PCAOB would have preferred to carry out.

Lynn Turner: They've also had a voice in who the members of the PCAOB had become, I think, can tell that is dealt with in some fashion legislatively or from an SEC rulemaking perspective. We're going to continue to see the PCAOB to struggle because you're in essence got the people who are supposed be regulated being the ones that oversee the regulators and that just the conflict is so gargantuan it just can't work.

Lucy Harvey: For our final question, tell us how you feel the PCAOB has done. Is it an effective regulator of the audit profession?

Lynn Turner: I think you have to think about that in two parts. The first part is, has the PCAOB done better than the structure that was there beforehand and inside the auditing profession? Has it done a better job at turning out regulations that protect investors? Have the inspections resulted in audits being better? If not, has it done an adequate job of enforcement?

Lynn Turner: There's been a whole series of articles or stories recently done by an organization here in Washington called the Project On Government Oversight or POGO, P-O-G-O, by David Hilzenrath. It's a fascinating set of articles to read because Hilzenrath was a business reporter at the Washington Post during the Enron days.

Lynn Turner: David did a series of articles back then. Here we are 20 years later and the same person writing a perspective then on how the new body is done. Those have been highly critical of the new body and I think rightfully so. There are places where I think the PCAOB has done a good job, their inspections. They got off to a rough start on inspections. They probably weren't very good. They transitioned, got a new director in, and I think that new director took it in the right direction and they got better. They still got room for improvement. For example, we found out in an enforcement action that they found problems with the firm's independence in 2015, but never got it fixed and it continued for a couple of years before the PCAOB finally stepped in but the inspection found it. They just didn't get the enforcement done right.

Lynn Turner: I think on the inspection side… I haven't been a college professor. I'd certainly give them a grade of a B; I don't think they're an A but much improvement over the old inspection process where the firms inspected one another. That which I oversaw it twice when I was at the SEC didn't function and didn't work well. We actually reported that to Congress at the time.

Lynn Turner: The inspections done okay; the standard-setting, probably not very good. The PCAOB adopted the profession's auditing standards right out of the starting gate which I think they had to do, needed to do, and then they were supposed to revise them over time. They probably only revised about half of them. Even where they've revised them, they’ve continued a lot of the old guidance, some good, some not so good. Here we are not quite two decades later and half the standards haven't been updated so not a very good grade C minus, D plus in this area. Even on some of the standards they've done, they probably still need to do some work.

Lynn Turner: For example, on the new auditor report that the PCAOB did at the same time a new report was done internationally by the International Standard Setter based on the initial disclosures we’ve seen, the International Standard has resulted in a much better reports in the PCAOB so C minus, D plus.

Lynn Turner: As far as enforcement goes, the PCAOB has been criticized for some time for not taking what they learned in inspections and turning it into credible enforcement action. For example, there's a well-known recent case of a bank that was largest bank to fail during the financial crisis called Colonial Bank. The PCAOB did nothing whatsoever, and PWC was sued for their audit on Colonial Bank and it was a public company so subject to PCAOB oversight. Absolutely nothing from an enforcement despite the fact that the TARP Inspector General is the one that found this problem just doing a desk review in Washington DC. That person found the problem with the audit and with the financial statements of that bank. PWC was sued and a federal court judge here in DC has ruled that, in fact, PWC was negligent with respect to their audit, and yet here we see the PCAOB not doing anything. That's one of several examples. The PCAOB has not used its ability to fine or penalties when behavior is egregious. All in all, again, probably D on the enforcement side.

Lynn Turner: Some of this goes back though to a problem with the SEC oversight and the fact that the regulated or overseeing the regulator, I think that's as much of the fault here lies with the SEC is perhaps anyone because I suspect the staff of the PCAOB would go a different course than what they're allowed to go on some of this. I think part of the issue goes back to the William Webster and the politicization of the PCAOB so a lot of the decisions made and in terms of policy at the PCAOB who's on the board that the PCAOB changes that are made and board members and staff that the PCAOB are not driven by as the statute calls for. This is all being done to protect investors and in the public interest, but being driven by politics which is something that most Americans have a problem with in DC in general. I think that has affected in a very negative fashion the ability of the PCAOB to do its job.

Lynn Turner: Probably at the start for the initial several years, it probably got off to a better start than what the former system was. I think the current system of inspection is still much better than the former system. After that, there's a lot left to be desired that probably doesn't meet what the initial inspections were. I don't think we need to start over from scratch, but I think there needs to be some fundamental changes in policies and oversight that are done if the PCAOB is ever going to achieve what the expectations of Congress were and centers or Sarbanes and the public with respect to audits. The real question is, will it be able to do that before we have another round of Enron some world counsel?

Lucy Harvey: Thank you, Lynn. Thank you for your time and your insight.

Lynn Turner: You're welcome.