

**Merri Jo Gillette Oral History  
with Kenneth Durr  
December 8, 2021**

This is an interview with Merri Jo Gillette for the SEC Historical Society's virtual museum and archive of the history of financial regulation. Today is December 8th, 2021. And I'm Ken Durr.

Ken Durr:

Merri Jo, good to talk today.

Merri Jo Gillette:

Thank you. You too, Ken.

Ken Durr:

Well, let's just jump into things with a little bit of background. I noticed that you went to Northwestern.

Merri Jo Gillette:

I did.

Ken Durr:

Are you a Chicago native?

Merri Jo Gillette:

No, I'm not a Chicago native. I grew up on Long Island and graduated from high school there and then went on to the Midwest to go to college.

Ken Durr:

All right. And you ended up back in Pennsylvania, which is interesting. Working first for the Pennsylvania Department of Labor. Tell me a little bit about that job and the kind of skills that you developed doing that.

Merri Jo Gillette:

It was a pretty basic high volume litigation practice. So, I appeared in courts all over the Commonwealth of Pennsylvania in the Commonwealth Courts. And I'd have a big stack of files. We would quickly get up to speed on them and then go in and handle whatever needed to be handled. So, for me, because I was interested in being a litigator, the ability to be standing up in court and in front of judges and negotiating resolutions with opponents, even though the matters themselves were not tremendously complex from a factual or legal complexity standpoint, it was a good way to cut my teeth on some basic litigation skills.

Ken Durr:

You spent a lot of time litigating, I guess?

Merri Jo Gillette:

Well, yeah. In that role that was almost exclusively what I did other than writing briefs, other things that are part of the litigation process. And I went to law school with the desire to be a litigator. That was my whole draw to go to law school.

Ken Durr:

Okay. At Dickinson, right?

Merri Jo Gillette:

Yes, at Dickinson.

Ken Durr:

Okay. Did you ever think about securities law at any point in here?

Merri Jo Gillette:

I did not. This is actually probably at least an interesting if not important part of my story. I had no background in finance, I had no background in accounting. I knew very little about the capital markets. Did not have any kind of financial background undergrad. I didn't even take securities regulation in law school.

Merri Jo Gillette:

I was hyper focused on trying to become a very good litigator and the subject matter was not of great importance to me, at least as I started out. But I had a professor in law school who had been a securities lawyer in New York City before going into academia who started to sort of quietly nudge me towards that idea in law school and continued to do so even after I left. And he was ultimately successful.

Ken Durr:

So, what took you down to Washington?

Merri Jo Gillette:

So, my initial position out of law school... I graduated from law school in 1982 and I took a position as a law clerk for the Office of Administrative Law Judges at the Department of Labor. Again, that was a first entree into seeing the other side of litigation, which is from the fact finders side and being clerk to a law judge. And then from there went on to do the litigation position at the Pennsylvania Department of Labor.

Merri Jo Gillette:

But it was just that the job was in Washington.

Ken Durr:

So, you went from the Department of Labor to the Pennsylvania Department. What got you down to the SEC?

Merri Jo Gillette:

So, four years out of law school my husband and I decided that we were going to be relocating really so that he could pursue a professional opportunity for him. And that was going to take us into, generally, the Philadelphia metropolitan community. So, I began to focus in the anticipation of that move on possibilities in the Philadelphia area.

Merri Jo Gillette:

And it just so happened that the SEC at that same time, 1986, had made the decision to close its Washington regional office, which is separate from what we think of as the home office now in Washington. It covered the Mid-Atlantic states and was resident over in Northern Virginia and they moved that office for the Mid-Atlantic states to Philadelphia. So, they were looking to hire people in the Philadelphia office because most of the people who had been in the Northern Virginia office opted to migrate into the Washington DC home office of the SEC.

Merri Jo Gillette:

And this same professor who saw a newspaper article about it literally snipped it out, scrawled across the top, "You should apply," and stuck it in an envelope with no other correspondence and sent it to me. And I applied, as much to appease him because this was not his first attempt to try to suggest I should move in that direction, as for any other reason. And that was the beginning of how I ended up ultimately at the SEC.

Ken Durr:

So, you got the job not anticipating that you would even get a call back or anything like that?

Merri Jo Gillette:

Correct.

Ken Durr:

Tell me about the interview. Did you go to Philadelphia? Did you go to Washington?

Merri Jo Gillette:

No, I went to Philadelphia. It was a position for an enforcement attorney position in the Philadelphia office. As I said, it covered the five states in the Mid-Atlantic region and the District of Columbia was their jurisdiction.

Merri Jo Gillette:

And I really didn't know much about enforcement. I was very, very unschooled and unsophisticated about what the SEC was, what they did, what the career options were. When I thought of securities law I primarily thought about transactional work, which I was not highly interested in pursuing. But because it was an enforcement position through both preparing for the interview and then as I learned more and more about the work and the position I became intrigued. Because, first of all, one component of the enforcement work is litigation and before you get to the point of public litigation all of the skills that you need to develop investigations really play very nicely off of strong litigation skills. So, I began to become intrigued with the option. And then it became an option when they made an offer to me.

Ken Durr:

Okay. Who was running things? Was Cliff Kennedy running the office at that point?

Merri Jo Gillette:

Yes, Cliff Kennedy was the head of the office. He spent about half of his time in Washington and the other half of the time in Philadelphia. His family was still down in the Washington area at that time. And because the region... So, as you probably know, the regional offices had three programs resident in them at that time, the enforcement program for the region, the examination program for the region and usually a small issues filing office as well. But the two primary were enforcement and examination.

Merri Jo Gillette:

And the region covered from Southern New Jersey, west to Ohio, and then down through Maryland, Delaware, the District of Columbia, Virginia and West Virginia. And if you think about that region geographically, from an examination standpoint, there was a pretty big geographic gap between Philadelphia and, for example, firms that would need to be examined in Southern Virginia.

Merri Jo Gillette:

And as a result of that there was a small contingent of examiners who technically were part of the Philadelphia regional office but who actually lived in the basement of the then-SEC office in Washington DC. And they would cover most of the Southern part of the region from an examination perspective. But the enforcement program all sat in the Philadelphia office and part of the exam program for the Northern part of the district.

Ken Durr:

Okay. So, you came into the enforcement side of the program, right?

Merri Jo Gillette:

I did, yes.

Ken Durr:

Tell me about your work just starting out as a staff attorney and also a little bit about the office itself. Thumbnail description maybe.

Merri Jo Gillette:

Okay. So, the office itself was a relatively small office starting out. It was probably, in terms of numbers, about two thirds examiners initially and one third or maybe even a little less than a third of enforcement attorneys. So, there was a regional trial counsel, there was an assistant director, a couple branch chiefs, this is on the enforcement side, and eight enforcement attorneys only, initially when I started.

Merri Jo Gillette:

Now, that same office is well over 100 people so it's grown over time. And all of us who were hired in as staff attorneys in enforcement were new to the work and new to that office. And that was just, again, it was a consequence of the shift in the geography and the experienced enforcement attorneys who were not supervisors had all opted to migrate into the home office.

Merri Jo Gillette:

It was a very collegial office, actually, and particularly in that small enforcement group because we were all learning together as we went and we had two choices. We could be collaborative and work together and hopefully all achieve some degree of achievement together. Or we could stab each other in the back. And fortunately it was a collegial group. I don't know what else to describe as far as the office.

Merri Jo Gillette:

But the work was varied. I had a number of cases early on in my career that were cases alleging some kind of disclosure or reporting failures by publicly traded companies. So, in some instances it was straight out financial fraud. In others it was things like how the future of the company was characterized, for example, in MD&A discussions, et cetera. And I worked closely with some of the enforcement accountants on those cases to develop the record and the GAAS and GAAP.

Merri Jo Gillette:

I also had a wide range of what I would call regulated industry type cases. So, broker dealer cases, some against mostly smaller, independent investment advisor firms, a fair dose of insider trading cases, market manipulation type cases and exchange cases. So, those last three, the insider trading, the market manipulation and the exchange cases really go to things that had to do with either market structure or misconduct in the market that would go to maintaining fair and equitable markets.

Ken Durr:

Is that, where you were, the balance of cases and the number of investment companies, that kind of thing, in the Philadelphia area?

Merri Jo Gillette:

Not in the early days. That did become something that would drive the case flow mix in various geographic regions as time went on. But at the time I joined Philadelphia they had a pretty varied case load in terms of subject matter and types of cases. And the philosophy, in that office at that time, was that the best way to train up new staff attorneys in enforcement was to give them a wide mix of cases so that they could become familiar with the range of issues, the range of statutes that the SEC is responsible for enforcing and it was seen as part of their development. It was not the only view but that was the culture and the approach in the Philadelphia office at that time.

Merri Jo Gillette:

And frankly, I think I benefited from that in terms of accelerating the range of things that I learned about so that I could begin to see connections and how to connect dots in market activity across what could have been viewed as standalone, almost tunnel areas of issues. Also, it grew. And this was true, really, I think for most, if not all, of the regional offices, in large part, also out of the examination program. Because back in those days when the regional examiners would go and examine a firm and find what they thought might be an enforcement case and make an enforcement referral, almost without exception, they would refer it to the enforcement staff in their own region, not into the home office to be redistributed or reassigned. And Philadelphia had a very active and experienced exam staff so that also generated a number of very interesting opportunities to pursue from an enforcement perspective.

Ken Durr:

And it sounds like it was a fairly large exam staff compared to some of the other regions.

Merri Jo Gillette:

It was. It was large in terms of its ratio to the enforcement staff. That was partially because of where it was located and the region that it had. But also partially because the enforcement staff was just being germinated in Philadelphia and hadn't grown into the level that ultimately it would grow into. But there were other regions that had large examination programs. Obviously New York did, Chicago did, LA did. It's hard to think back to all those years ago and separate that from what I know about where they are today. But there were other offices that had smaller exam staffs but also many that had substantial exam staffs.

Ken Durr:

Okay. How about headquarters? Did you get any training? Did they ship you down to talk to people at headquarters?

Merri Jo Gillette:

Not very much officially back in those days. And I say officially because one of the things about being a staff attorney in the Philadelphia office was its geographic proximity to Washington DC, which meant that just from a very practical standpoint, to be able to access potential training or exposure to programs that might've been going on in the home office, not necessarily being taken around to the regions, from Philadelphia it was a matter of hopping on an Acela train and you could be down in Washington in an hour and 30 minutes, which could make it a day trip. And it was very reasonable from a resource standpoint in terms of the office supporting that kind of travel.

Merri Jo Gillette:

We also had the benefit of having Cliff Kennedy as the head of the office at the time and he having come up in the Washington regional office, which was an even shorter train ride, over to the home office in Washington, he had experienced and really strongly believed in the value of exposing young enforcement staff and other staff to some of those opportunities. So, he encouraged us to identify opportunities, take advantage, when our cases were ready to go before the Commission to actually go down in person and sit with the commissioners and experience that. And I certainly was a beneficiary of that.

Merri Jo Gillette:

When I say not very formally, as time went on, there began to be formal training that was developed and was also... They would bring in enforcement staff from the regions as well to participate in it once a year. But there was nothing like that that actually existed in that way at that time.

Ken Durr:

Okay. You talked about some of the cases and you talked about this on the job training. Do you remember what some of those earlier cases were that were particularly challenging or that you thought were particularly interesting?

Merri Jo Gillette:

So, I'm going to say really the first really large case that I had assigned to me... Although I had multiple cases. You carried more than one case at a time. So, I had other cases in my case load. But it stands out to me because it was a case that had been fully investigated by an experienced enforcement attorney in the Washington regional office but had never actually... When the investigation was completed the analysis and the write up of a recommendation to the Commission to bring the action had not occurred. And that attorney then went on to move over into the Washington home office. So, for some reason the boxes of evidence got shipped to Philadelphia and it was assigned to me.

Merri Jo Gillette:

And it was interesting but probably more memorably challenging for me personally because in order to be able to be confident that you had the evidence to recommend the violations it turned on accounting treatment of a number of different individual, not uniform and repeatable journal entries that had the results of either increasing revenue or inappropriately diminishing expenses so that eventually you got to the bottom line and it looked like the company was doing a lot more than it was. And with no background at all in accounting or how to read a balance sheet or income statement... I was very intimidated.

Merri Jo Gillette:

I had some really, really great and experienced CPAs who were assigned to work with me on that case. And what that did for me besides, first of all striking the fear of God in me about what in the world I had gotten myself into, is that as time went on I began to gain a pretty high degree of confidence that I could do this work and I could make these cases and I could learn the stuff. And that, the credit for that goes all to the accountants. So, I'm going to call one out in particular, Paul Bogeman, who was a supervisor and had been doing this work out of the Washington regional office as an accountant for many years.

Merri Jo Gillette:

But also some of the other managers and supervisors who really invested in me and at the same time that some of them were telling me, literally, that I would never be successful in enforcement because women weren't tough enough to make it in enforcement, there were others that were really investing and then affirming me and really encouraging me that I was on the right track and to keep at it. I might not be the smartest person in the world and actually maybe this is more a reflection of me not being that smart, I don't know. But one of the things that's true about me is that I can be very tenacious and hardworking and I was just determined that failure was not going to be an option for me under the circumstances.

Merri Jo Gillette:

So, that case, which is not a case that I now would say had the most complex securities law issues in it but what I had to learn in order to develop the record and then gain confidence because what we were going to be doing, if the Commission accepted my recommendation, as with all enforcement case, has tremendous potential impact on the lives of individuals and frequently on the future of businesses and their shareholders. So, I would start out with that.

Merri Jo Gillette:

Another case that I got thrown into just by being in the right place at the right time, which I always remember to this day, was a case against a pretty small regional broker dealer called Lloyd Securities.

And I won't bore you with the details but there was a massive fraud going on there, being perpetrated primarily by the principal owner of the firm as well as his accountant whom we also later sued. And there was also a criminal case that flowed from that.

Merri Jo Gillette:

But the way that that case came to me is that we had some examiners doing just a routine examine of this broker dealer and FINRA, it was the NASD then, also had examiners in there at the same time reviewing their net capital. And they realized something was really amiss with the net capital account and the net capital contributions. Now, at that time I don't even know if I could've told you what a net capital account was or where the authority came from or the requirement came from under the statute. I was that new.

Merri Jo Gillette:

But they pretty quickly realized that this might be an emergency case and that we might have to get into court to seek a temporary restraining order. And I raised my hand and said... They literally, managers were walking the halls in our office saying, "Does anybody have time for this? We got this case. You need to drop everything now." And I raised my hand and said, "I'll do it." I had no idea what I was getting in for but I liked the "you could be in court quickly" part of it.

Merri Jo Gillette:

And for those people, well probably just about anybody who's done much with the SEC now, I am going to throw out a name that everyone will recognize. So, I here I am in Philadelphia, don't know too much about anything that has to do with the work we do. And I needed an expert witness to be able to go into court and testify about how the net capital rule works and what was going on at this broker dealer. And my supervisor says to me, "Oh, well you need to call Mike Macchiaroli." And I said, "Excuse me." This was a name that was not known to me at all at that time. "Call Mike Macchiaroli. He's in the Division of Trading and Markets," what we now call Trading and Markets.

Merri Jo Gillette:

So, I called him up. And I'm not going to say anymore because those who don't know Mike won't fully appreciate it and those who do know Mike don't need me to say anymore except to know that here all of a sudden this very green staff attorney in Philadelphia is a voice on the phone with Mike who was just and is still this guru in this area. And I will always be grateful to him and many others. I could tell many stories like this. But for the patience that he showed me and how he taught me and how we're working under pressure and my ability to deliver was on the line as much as anything. Of course, his was a little bit too because he was going to be the expert witness testifying.

Merri Jo Gillette:

To this day, I owe him a debt of gratitude because I was so far in over my head just on that one small aspect of the case and he just treated me as if I was going to be fine, we were going to do this and we did. We prevailed in the case and in the immediate hearing most suddenly. But it was like being thrown into not the deep end of the pool, like taken on a boat two miles off shore and dropped into the ocean and said, "Hey, see you later." Except thank goodness there were a few people there in the water that I didn't know were there, who came and held me up and we were able to move forward together.

Merri Jo Gillette:

And I have to say, as somebody who personally is just always hungry to learn new things and to have new experiences and to continue to grow, being thrown into this environment where it was both exciting and stimulating and I'm not just confining this to the Lloyd Securities case and Mike Macchiaroli, but the entire environment and incredibly intimidating. It was not lost on me that I might've been the dumbest person in the room or certainly the least schooled person in the room in situation after situation after situation. And yet, I had access to these great minds, people who were driven and committed to fulfilling the mission of the agency both in terms of the immediate misconduct before them as well as more broadly, pursuant to the mission of the agency in ways that I could never have imagined on the day I accepted the job.

Merri Jo Gillette:

And I'll tell you, I started to know that I was doing okay and I couldn't tell you exactly when this was. But it was still early in my early days in Philadelphia, maybe a handful of years in. When I started to be called into rooms early on in complex cases with lots of other people much more experienced than I from the Philadelphia office and we'd be brainstorming. What do we think is going on here? How could we figure this out? Where should we investigate? What could their motive be? And I started occasionally to have the experience where I'd be sitting there thinking to myself, I think I have an idea here. But then I would look around the room and there were all of these people there that were way more experienced than I and who I'd worked with now, at that point, on some other things and I knew were very, very smart and no one else was saying it.

Merri Jo Gillette:

And I would start to think, okay, I must be missing something. I'm not going to open my mouth because I might make myself look really stupid because clearly if that was the answer someone else besides me would've thought about it. And then having, and I'm just summarizing, then having the experience two or three days or a week later where the same group of people were back to brainstorming and someone else in the room would say, "I think I know what they're doing," and they would say the thing that I had been thinking but afraid to say. And then I started to quietly think, okay, I'm catching on to this.

Merri Jo Gillette:

So, it was a little bit of baptism by fire and I don't mean to say that in the sense that it was traumatic because it wasn't traumatic. It was very exciting. But there was a lot happening and a lot happening for me because I didn't come into the role with some of the grounding that some others had both in terms of just getting oriented to the agency and the process and what we were doing in enforcement but also just the basic subject matter. How did the markets work? How does a market maker make a market? What is a market maker? How do you figure that out? Things that others, perhaps had had more exposure to, at least in an academic setting before arriving at the SEC.

Ken Durr:

Right, and someone [inaudible 00:29:06] Mike Macchiaroli [inaudible 00:29:09].

Ken Durr:

About how long was that? Did it take a couple years, a year?

Merri Jo Gillette:

Oh, wow.

Ken Durr:

Just ballpark.

Merri Jo Gillette:

I would say that I was feeling pretty confident a couple of years in at the time. But from where I'm sitting right now and knowing where I was a couple years in and how much more there still was to learn, I just think it was additive over time. By a couple years in there were areas where I had become very proficient and confident and knew how to tap in to the system and how to lead others on teams. We did a lot of things in teams, which I liked a lot and still like working that way.

Merri Jo Gillette:

But it was just a process. And later, many years later when I was an office head we would confer amongst office heads and we would talk about the pros and cons, for example, of hiring someone straight out of law school versus someone who had more experience and what kind of experience shortened the learning curve for an enforcement attorney. And there was no data on it, or not any that I saw, but there was this gut instinct among those of us that had been doing it a long time that the average amount of time that a new hire as a staff attorney in enforcement needed to become really fully integrated and able to be fully productive, it doesn't mean they weren't productive at all before that, was about three years. And obviously for some people it was less and for some people it was more unfortunately. But that was kind of the feeling and it just speaks to the range and complexity of work that can come across your desk when you're in one of those roles.

Ken Durr:

Okay. Well, at some point you were recognized as being pretty well grounded in this stuff. It started to show up in the newspapers. One of the cases that I noticed had to do with [inaudible 00:31:18] Pennsylvania, municipal bonds, school districts and a guy named John Black. Can you tell me about that?

Merri Jo Gillette:

Yeah. So, John Gardner Black. This is another really great story that came out of our exam program. John Gardner Black was in Western Pennsylvania and he was a registered investment advisor and he also was one of only four firms in the State of Pennsylvania at that time that had a separate license/registration, which Pennsylvania requires in order to advise on the investment of funds that have been raised through municipal securities offerings. And that added requirement, not every state has this, but that added requirement in Pennsylvania, the policy behind that was that if you do a bond offering and you raise money from people who buy the bonds and not all of the proceeds of the offering are required to be used right away for whatever project they were raised for, there's an expectation and really an obligation to be reinvesting the proceeds.

Merri Jo Gillette:

But given the fact that whoever's going to make the decision about reinvesting those unused proceeds, it's not their money and bonds are supposed to be fairly low risk as an investment vehicle, Pennsylvania

has some requirements about the type of product and the level or risk that municipal bond proceeds can be reinvested in. So, they have a whole licensing program for that.

Merri Jo Gillette:

And John Gardner Black was one of four people or he owned the firm that held the license to do this. And we had a group of examiners from our '40 Act side exam program out in the field examining his investment advisor. And we had an examiner, his name is Mark Dowdell, he still works for the SEC, but he was much, much earlier point in his career, who got in there and he started looking at what the investments were and how they were being reflected on the statements to the clients of the firm. And one of the things that was reflected as an investment was something called an inverse floater.

Merri Jo Gillette:

So, this was very early on before complex derivatives and some of these complex products that became much more prevalent later were really well known. And-

Ken Durr:

So, mid 90s, is that about right?

Merri Jo Gillette:

I'm sorry?

Ken Durr:

It's the mid 90s, something like that.

Merri Jo Gillette:

Oh, gosh. I don't know. I'd have to look it up. That sounds good to me. That sounds about right. And Mark was taking a class on his own, just to continue to learn, at Wharton at the time, and one of the things they had been talking about in this class is how to value inverse floaters and other complex derivative products. So, he got a little curious about it, because the math didn't seem to be working out right, and he decided that this inverse floater was being overvalued beyond what its face value was. It happened to be a 25 year floater. And so, the way, what we know now, is that the way that they were valuing it and the way it was then being reflected on the statements to clients, was as if the floater were held to full maturity, which was 25 years out, at which time it would have the greatest value.

Merri Jo Gillette:

But how it should have been being valued and reflected on client statements is if something went awry today and the thing had to be liquidated, what value of security would be sitting in your account that you could rely on, in the form of whatever your pro-rata portion and of this inverse floater was. So, Mark was certain that he was right. And so, they came back to... He was all excited. They got the enforcement staff involved. We did a little bit of legwork and we're all getting all ready to go into federal district court, to get a temporary restraining order, to basically freeze everything until we could sort it out. And Bill McLucas, who was the head of enforcement at the time, was extremely nervous that we might be wrong about this, and with good reason. Okay, this was just a very burgeoning area. Mark Dowdell, although he was a very diligent, and turns out correct, student of what he was learning, he

wasn't an expert in this area and there were people way more sophisticated in the industry where it was.

Merri Jo Gillette:

These were very difficult at the time, to really value. And everything about our theory depended on whether this was being overvalued or not. If we were wrong on that, we were going to fall flat on our face in court. And it turns out that many of the clients were these school districts. Not just in Pennsylvania, also from some other states, that also had heard about John Black and the returns he had gotten for clients. And some of these school districts were in towns in Western Pennsylvania, where people that Bill McLucas, who grew up in Western Pennsylvania, who knew very well or possibly may have been related to, either sat on the school board or were prominent in these small towns. And there were just lots of factors that made us very nervous about whether to go forward or not. And we did something that was, in my experience, not very common at the time, we actually entered into an agreement with Lehman Brothers to do a confidential valuation analysis for us of this instrument.

Merri Jo Gillette:

And they pretty much confirmed what Mark Dowdell had worked out in his little scratches on paper, and we went into court. And the back end of the story is, it was a 71 million dollar fraud, and by that it mean that he was inflating the stated value of this instrument by a little over 70 million dollars. It became very involved and I won't bore you with all the details. Ultimately there was a criminal referral and John Black did go to prison for a portion of this. But what happened in the meantime was that all of these accounts were frozen, which created another very practical challenge for all kinds of people, like the school districts, because they needed to get access to the money that was in their accounts to be able to meet their obligations, to pay on ongoing contracts and things for which the bonds had raised the money.

Merri Jo Gillette:

And so, it became this incredibly complex piece of litigation overnight. I spent a large amount of my time in first person in the Western district of Pennsylvania, for months and months and months. And the thing I just always love to tell at the end of this story, is that when everything was said and done, years later, John Black is in prison because eventually he pled out on that, that one didn't go to a criminal trial. But still when the civil litigation was continuing, and everything was said and done, experts brought in from all over the place to value this instrument and figure out what the harm was. The same calculation that Mark did with his pencil on his notebook paper, and that which was determined by the court to be the final valuation of that instrument, varied by less than \$1,000.

Merri Jo Gillette:

So, that was the value of having these examiners, who might not be experts, but to some degree because they're in so many different firms and they see a wide range of how firms operate, those who are experienced can develop almost a sixth sense. They may not know exactly what's not right, but they know something's not right. And then you start digging. And so, the John Gardner Black case was one of them. And at the time that it was brought, it was the largest investment advisor fraud that had ever been discovered and brought in the state of Pennsylvania. Now, that has long since been surpassed.

Ken Durr:

I hope Mark Dowdell got an A in that class.

Merri Jo Gillette:

Mark got an A. He got recruited to go to another large firm on the street, which paid him very well. And within two years he came back to the SEC because he had the SEC bug. The money meant nothing to him, he really wanted to do God's work. I mean, those would be his words, God's work.

Ken Durr:

Another thing we should talk about are a group of cases that are referred to as revenue sharing cases. Tell me a little bit about that.

Merri Jo Gillette:

Yeah. I have to take people back a little bit in time to what was going on in the public. There were lots of cases being brought against large mutual funds, and other investment company vehicles. Most of them were focused on, and I think people will remember this, market trading... I'm sorry. Market timing and late trading methods that allow... Well, the theory was, and sometimes the facts bore it out, that the trading decisions were done in ways that had the effect of impacting the market inappropriately. So, the value was temporarily what it was, but not value that would hold. And there were all... I mean, the practices were rampant throughout the industry, and potentially without tremendous mal-intent in a lot of places. I mean, there were ones where the evidence was a little more juicy, and there probably was intent. But at any rate, it was a huge thing in the press.

Merri Jo Gillette:

And Eliot Spitzer was the New York AG at the time, and because the New York AG's office has the jurisdiction that it does under the Martin Act, and because particularly under Spitzer, they frequently would grab headlines by charging people and making a press announcement before they did an investigation. Which the SEC is precluded from doing, both by its authorizing statutes and also by policy at the time. Although many of those matters were being simultaneously investigated by the SEC, we couldn't speak about them publicly. And the SEC was getting beaten up in the press and in the industry, day in and day out, about what is the SEC doing about what's going on in the industry? And I had a small group, a team in Philadelphia that was doing an investigation, actually into B Share classes and recommendations. And the recommendations to clients, whether they were being done appropriately to purchase B Shares and mutual funds.

Merri Jo Gillette:

And there were a couple of people on that team that in the course of looking at that, stumbled into some patterns that they started seeing repeated in different places, that we all now think of and talk about and is well recognized, as what we would call revenue sharing now. At the time, what we now call revenue sharing, and unless you do it in certain ways and disclose it in certain ways, may violate certain provisions of the Investment Advisors Act, and possibly even the '34 Act, depending on what kind of firm you are, was being done as a way of doing business quite extensively in the business. And I don't think that there was a... Many of the firms didn't think there was anything wrong with it. And frankly, the regulators hadn't really focused in on it in the way that they have now.

Merri Jo Gillette:

And we began to realize that this was something that nobody else was- And that we thought that there was [inaudible 00:44:19] that might present a cause of action. And we started to start lobbying with various people in the policy divisions, and talking to the heads of enforcement in Washington about a

theory that could perhaps capture this conduct as inappropriate. And the outcome of that was that the Philadelphia office ended up bringing two seminal cases in the revenue sharing area. The first was against Morgan Stanley's distribution arm, and I believe that was in the fall of 2003, don't quote me on that. But I think that was when it was. And then six months later, the same team brought a case on the fund side against MFS. And it really... Both of them focused, one on the distribution side and the broker dealer.

Merri Jo Gillette:

But on the other, in the funds context, on these undisclosed revenue sharing arrangements, in connection with distribution and sales of mutual funds. And it was a game changer for the SEC to be able to step forward and demonstrate that they understood the industry, that they really were watching what was happening there. And they came forward with this whole suite of cases started by those first two, that were not being pursued by, in particular, Eliot Spitzer's office, or any other regulator at that time. The Philadelphia office went on to also bring a case against Pilgrim Baxter & Associates, and the advisor to that fund and it's two principals. And there was also some market timing allegations, as I recall, in that case, but also revenue sharing. And when I got out to the Chicago office, there were two additional, pretty significant revenue sharing cases that had been started by the Chicago staff before I got there, but that we brought to fruition and brought forward.

Merri Jo Gillette:

So, that was an area where I have to say, the staff on the team working with me in Philadelphia, one, to recognize the issue, to think outside the box about a legal theory that could capture the conduct. And then, the absolutely relentless advocacy and discussions internally at the agency, these are the things that the people in the public don't see on the outside, because by the time it becomes public, you've gotten a consensus or alignment anyway within the agency, with the General Counsel's office, with the Division of Investment Management, with the Division of Market Regulation, now Trading and Markets. And with Enforcement to really take the same statutes that had been on the books since 1934 and 1940, and look at conduct, which had really evolved as the industry grew and evolved, and take a step back and say, "Hold on a minute. There's a problem here, and do we have the tools to capture it?"

Merri Jo Gillette:

And not only... Because it's not only to punish someone who's what I would call a bad actor, or someone who's engaging in inappropriate conduct, but it is also to message to the industry and to investors, here's what you can expect. And we may have only brought three cases in this space, or maybe we brought six in two years, but now everyone's on notice, and it can begin to have, from a policy standpoint, a broader impact. And the revenue sharing cases are ones that I am extremely proud of, and particularly of the team that put them together, and worked with me, and together we brought those forward.

Ken Durr:

It sounds [inaudible 00:48:38] to get this through. The divisions, ultimately to get it through the Commission. Did your team, your Philadelphia team have a role beyond that? Did you share this new work that you'd done with other regions or within the divisions?

Merri Jo Gillette:

So, by that time... Well, let me say a couple different things on that. Throughout the entire time that I was in a regional office, and as you know, I was in two, there was always a very strong collegial relationship between the heads of the regional offices. So, the directors of those offices would share information. We would help one another in any ways that we could. And so, there was an informal network through which things were shared along these lines. But by the time these cases were brought, the Division of Enforcement as a whole, so the division in Washington, and then those portions of the regional programs that were doing the enforcement work, charged with the Enforcement Program execution in their regions, were having not only annual conferences, where we shared with all of the senior attorneys across the... When I say senior attorneys, the management, from all of the regions, we'd come together at least once a year, usually for about two to two and a half days.

Merri Jo Gillette:

And people would talk about if they'd done a new theory, if they were working on a theory, what they were seeing, share information, whether other places including the home office were encountering any of the same thing. And on top of that annual, we were beginning to have, at least by the early two thousands, so this might have been a little bit after the revenue sharing cases, but not a lot, regular senior staff meetings by teleconference once a week, for the Division of Enforcement, and separately for the Examination Program. And so, these are the kinds of things that would be talked about there. And because clearly we're all part of one program, for the program to be as successful as it can be, the more we can leverage and share the learnings, the findings, the successes, what's worked, what hasn't, with others in the program, the more we strengthen the program broadly.

Ken Durr:

Okay. Yeah. That's an interesting concept, talking about how the regions got along. One of the things that happened while you were in Philadelphia is the Chairman, Levitt, set up the [inaudible 00:51:37] regions and Philadelphia, it had always been a branch. But it was reporting to the New York or the Northeast regional office. Were there-

Merri Jo Gillette:

So, wait. Hold on. I just want to say something. Philadelphia had not always been a branch. From 1986 until Chairman Levitt made that change, Philadelphia was a regional office.

Ken Durr:

Okay. Okay. Very good.

Merri Jo Gillette:

Yeah.

Ken Durr:

From '86 to '93 then.

Merri Jo Gillette:

Yeah. I think it was '93. That's my memory too.

Ken Durr:

Okay. So, when Philadelphia is converted to a branch, it's going through New York.

Merri Jo Gillette:

Right.

Ken Durr:

Did that affect morale? Did that become a hindrance or was it seen as a [inaudible 00:52:24].

Merri Jo Gillette:

I'm going to give you my personal perspective and experience of it. Yes, there were people that were demoralized by it on the staff, and felt like it was a condescension. I think for some offices and some individuals within some offices, they experienced it as more of a negative. For me personally, because Philadelphia then became a district office under the New York office, which at that time was being called the Northeast regional office, I had already, in my own caseload and in the roles that I had been in, collaborated a lot with a lot of the people in New York, and many of the senior leaders of the New York office at that time. It was just a natural outgrowth of some of the things I was working on, and some of which we partnered with New York on, even before this change in structure happened.

Merri Jo Gillette:

From my perspective, yeah. There were small administrative irritations, but it did not have a big impact for me on the day to day of what I was doing. The biggest impact was that our enforcement memos, which are the vehicle by which we would make our recommendations to the commissioners to get authorized to move forward with fill in the blank, bringing a case, settling a case, adding a defendant, bringing a new legal theory forward. While prior to that change, those memos would go up through review within the Philadelphia office. I'll just use Philadelphia as an example. They would then go to Washington and have to, as every office had to do that was in the region, be reviewed by all of the region, or the divisions and the General Counsel's office in Washington. And then ultimately would get signed off on to go to the Commission.

Merri Jo Gillette:

After Chairman Levitt restructured things, we'd start in the Philadelphia office and do the same thing there. Then we had to send it to the New York office, and they had to sign off on it before it went to Washington for the Washington review. The practical reality is the way that they did that was they assigned one guy, whose job it was to review every one of those memos. It happened to be somebody that I had collaborated with on some complicated issues before this structural change, so I knew him a little bit. Very smart, a little bit of an inflexible personality. So, there were people who would experience that as a frustration.

Merri Jo Gillette:

I found that often there was value delivered through the feedback that we got, that made the cases stronger. And anyway, it was a non-negotiable part of the process. So, to some degree, I'm a little bit of a realist and a pragmatist, and spending a lot of energy fighting something that wasn't going to change, as opposed to just figuring out the most efficient path through that step to get to the next step, I chose to do the latter. I do know that in some other regional offices, there were some much higher levels of

frustration, because different, what had been a regional office and then became district offices then, were funneled through different now regional offices. So, not everyone's experience was the same, and I can only speak to mine.

Ken Durr:

Right. Okay. There was a complicated reshuffle, Merri Jo. Tell me about your career. You worked your way up in Philadelphia. Did you work your way up to the number two position there?

Merri Jo Gillette:

I did. Well, the number two position over enforcement. So, at that time, and still, although this wasn't always the case, there was a head of the office, and then there was a deputy, and what you would call an associate director, one over the enforcement side of the program, and one over the examination side of the program. At one time, if you go back far enough, actually if you go back far enough there were no deputies at all. There was just a head of the office. But before the time I'm talking about now, in the smaller offices, you might just have one deputy, who was the number two person over both programs. But by the time I began to head up the enforcement side, and I was the deputy there, there was also a deputy over the examination program, and that was Joy Thompson, who still is there in the Philadelphia office in that role.

Merri Jo Gillette:

So, I had a little bit of a... I'm not sure if this is unique now as it was at the time, because I just haven't followed it with this degree of detail. But when I first joined, a very high percentage of the cases that the SEC brought, settled without going to trial. Which didn't mean there wasn't any prefatory litigation before things postured for settlement, but there was a very high percentage that were filed publicly as settled cases already. And as a result, the quote unquote, litigation caseload, and therefore the litigation staff thing that was resourced, was pretty small. As time went on that began to shift, and there were lots of reasons for that. Just a really simple example. As I started in 1986, in 1990, the Remedies Act of 1990 was passed. Now, all of a sudden the SEC was given a lot more authority to seek sanctions that hadn't been available before, and many other changes.

Merri Jo Gillette:

And it actually raised the ante, things like civil penalties, which other than in insider trading cases had not been available previously in civil cases. And so, more defendants started challenging these things, because it was going to hurt more to settle it. And the statute was new, so there were a lot of cases of first impression to test what the new statutory provisions really allowed for. And for that, and other reasons, the complexity of some of the new cases that the division was moving into handling, we began to have more and more litigation. And I, because of my consistent and unrelenting interest in getting into court and being a litigator, was constantly raising my hand to get involved when there was need for additional litigation help in the Philadelphia office. And as time went on and they began to designate some specifically dedicated, additional litigation roles, I spent time both in the investigative program and as a litigator, as a chief trial counsel for the Philadelphia office.

Merri Jo Gillette:

And ultimately as the head of their whole trial unit, as that trial unit got built out in Philadelphia. But throughout the time, and it was really just a matter of circumstance and being asked, because of particular needs, to step back over into overseeing investigative work, to step back into the trial work, I

flip flopped between the two. And that was not a really common experience at that time. Most people either were on the investigative side or on the trial side. Now, one thing that was different from office to office in the regions, and also even in the home office actually, is that there were different approaches to how to staff litigation when it did arise.

Merri Jo Gillette:

And in some offices, there was this very, what I'm going to call pretty rigid division, between people who were litigators and people who weren't. And the attorneys that developed the investigation, often handed off when the case was ready to go to trial, that second phase to the designated litigators. In other offices, and I was a big proponent of this in Philadelphia and started pushing for it, because we were probably a mix before I started pushing for this. I really felt that we should allow, and in fact, encourage, investigative attorneys to remain involved with the litigation if they wanted to. As we developed the evidence and began to think about how we were going to put the case on in a courtroom, because it's a slightly different set of facts and what you think you know, and what you can actually demonstrate through admissible evidence to support a finding by a court, are not always analogous, and I thought it would strengthen the skillset of our investigating attorneys.

Merri Jo Gillette:

When I arrived in Chicago, I was delighted to learn that the Chicago office had had this view all along. And in fact, they specifically hired staff attorneys, telling them that if you have a case that's going to litigation, you very well may be part of the litigation team that will also go into the courts to litigate it. And so, if you talk to different people and in different offices, and even sometimes by different assistant directors in the same office, there were varied approaches to that. But that was how I came up, and it was my bias partially as a result of that experience, but also because I believed that it really strengthened the skillsets of our folks.

Ken Durr:

That is interesting that the regions had litigation groups beef up a little bit into the nineties, through the nineties, moving into the two thousands. And you've put yourself in Chicago, so let's talk about how you made the leap. What was the opportunity there?

Merri Jo Gillette:

Okay. I had been in the Philadelphia office for 18 years. My husband was a partner in a Philadelphia law firm. We had five children, still have five children, and I was not really thinking that my life circumstances suggested that a choice to move my entire life to a completely different region and city was likely. So, I wasn't thinking that way at all. But I got some encouragement to at least consider it. And it caught me off guard, and my initial immediate reaction, even in talking to my husband was, this is very flattering, but I couldn't do that to the family. It would just be way too complicated and disruptive. But to get to the end of the story, eventually my husband came back to me and said, "I really think you should consider this. And if you're given the opportunity, give it a shot, we can make it work. It's a great opportunity for you if it comes to fruition." And that is how, when offered the job...

Merri Jo Gillette:

So, Steve Cutler was the director of the Division of Enforcement, and Linda Thompson was his deputy, and Bill Donaldson was the chairman at the time. I got appointed to head what was then called the Midwest Regional Office. And then, it later was changed to the Chicago Regional Office. It didn't change

anything about the jurisdiction of Chicago, because Chicago was one of those mega regions under Arthur Levitt, that didn't have any district offices. So, it just got its name changed, to align to the structure of everyone else. But at any rate. So, I was offered opportunity, and the Chicago office at that time, was the second largest regional office after New York. Its '40 Act Examination Program was the same size as the '40 Act Exam Program out of the New York office. And that, to your earlier question, was in large part driven by the number of investment companies and large investment advisory firms supporting the investment companies, that were resident in two primary areas. Not exclusively in these areas, but in particular in Chicago and in the Twin Cities in Minnesota, each of which sat within the Chicago office's region.

Merri Jo Gillette:

And I stepped into an office of just a little under 300 people at the time. And I was a fish out of water. Well, let me put it this way. I wasn't really sure what kind of reception I would get. Of course, I had talked to people in senior roles in Chicago over the years, at the conferences that we'd go to, and I was aware of people's cases when they brought big cases. But for 35 years before I arrived there, there had been only two people who led that office. One was Bill Goldsberry, who was in the office for 25 years, retired from that position, much beloved and long tenured in that office. And then, his successor was Mary Keefe, who had been in the office from very early in her career, until she was ultimately appointed the head of the office, and had been the head of the office for 10 years prior to my arrival, having grown up there her whole career.

Merri Jo Gillette:

So, I was that office's first experience with somebody who wasn't from the office, wasn't from Chicago, as far as they knew, wasn't from the Midwest. But I had actually... What they didn't know is that I was born in Michigan to two parents who were the first in their family to go to college, after growing up on single family farms in Michigan. And to this day, just about every other relative that I have, other than the nuclear family that I grew up in, are still resident in Michigan, and many of them still farming. So, I actually had had exposure to and could claim some Midwestern roots. But still, that's not what they knew about me. And I came to Chicago, and all I can say is what a fantastic group of people. They welcomed me. I mean, of course they were all curious, did I have three heads? Was I going to have purple polka dots? Is she going to be one of these obnoxious Northeast people? Or is there another side to her, but they opened not just their minds, but honestly their hearts to welcome me there and to make me part of the team, to get to know me, to help me to understand what they had to offer and what was going on in that office on the day I arrived, the day before I arrived, was such a professional and impressive and high level of work long before I arrived there, that I was very, very fortunate to step into that role. And from there, all I can say is we put our heads together and tried to think about where as an office we could go from where we were on day one, where were things moving within the Commission?

Merri Jo Gillette:

How could the Chicago office have visibility and make contributions and contribute not only within our region, but on a more national level to the agency, and very intentionally into the larger financial services and regulators community in the Midwest. And there was ... I feel like I sound like a mother when I say what I'm about to say, but I am a mother so just bear with me. I have such pride, even though I have no reason to feel proud except my gratitude in the quality of work and the strategic ways that folks in that office over the course of nine years when I was heading it, worked with me and helped to expand my thinking, and how we worked together to really expand the influence and impact of the

work that was coming out of that office. And hopefully to some positive effect for those in other offices around the country as well.

Ken Durr:

When you were making this transition, did Jim Clarkson help smooth that? Did he ... I get the sense that he was kind of the person who made sure the regions were functioning properly and talking to headquarters the right way?

Merri Jo Gillette:

And you raise Jim's name. Jim is somebody ... I had sort of made a handwritten list of really important people who influenced me, and mentored me either intentionally or unintentionally, because I was looking to them as a role model from afar, whether they were aware of it or not. Jim is one of the people who needs to be very near the top of that list. There are many, many people, and I hesitate to name names because for every name I say, there's probably someone that I've forgotten. But what I will say about Jim Clarkson is the following. Jim was heavily and personally invested both because of structure of responsibilities, but mostly because of the person that he was, in the importance of and the success of the regional offices from a very early time.

Merri Jo Gillette:

And when I say structurally, if you go back far enough, there was a time, and this was true when I first started in Philadelphia, where Jim Clarkson, his title was Director of Regional Office Operations, and he reported directly into the chairman's office. So not through the Director of the Division of Enforcement, not through the exam program, but directly to the chairman. Now I don't want to get into too much sort of structural history of the agency, but what I will say about Jim is he recognized very early on in his tenure what the opportunity was for the regional offices and how they could compliment the programs, and the mission, and the work that was being done in Washington DC, and really support that. And actually in many ways, be additive because they had boots on the ground in the local areas where they established relationships, for example, with the registered securities firms.

Merri Jo Gillette:

They got to know the culture of the local geography, the types of vulnerable populations that existed in some places that might not exist in Washington, or frankly, they might not have existed in Seattle, but they might in Philadelphia, and allowed the reach of the Commission to really be cultivated further than otherwise it might have. But most importantly to me is, and I didn't even really have an appreciation for this or understand it as a young attorney.

Merri Jo Gillette:

I need to say, make a foundational point before I say what I'm going to say about Jim. So to this day, if you exempt the commissioners and the chairman, there are only 11 people in the entire SEC who have responsibility for more than one division program area. Eleven people. Those are the regional directors. Because the regional directors are responsible to implement and be accountable to the home office, the enforcement program and all its policies and priorities, and the examination program. Think about the Director of the Division of Enforcement. I'm not saying that they don't as a good practice coordinate, collaborate with the head of the exam program. I would say that's an opportunity that if it's not being leveraged is shortsighted, but it is not their responsibility. That is not true for regional directors.

Merri Jo Gillette:

And Jim recognized very early that the type of leadership and the type of executive strategic thinking and management to deploy limited resources to meet two different program needs, frequently in large and varied geographic areas, and to be responsible for every aspect of running the physical plant of the office. In a regional office, you don't have a facilities department. In the regional office, you don't have an HR department. Now, granted you have access for support to those functions in Washington, DC, but on the day that somebody shows up in your office in Chicago and says, "Let me see your insurance certificate to comply with Chicago, whatever it is, requirement XYZ, if you didn't know you needed to have that and you don't have it, there's nobody in Washington who can help you with that.

Merri Jo Gillette:

And Jim began to identify people, and frequently people who wouldn't necessarily ... Not always people who wouldn't necessarily be immediately obvious. He was very intentional in investing in people. And I think by now to some of the ... I knew who he was because he was the Director of Regional Office Operations. He would visit regional offices a couple times a year when he was there, we would have meetings with him to brief him on what was going on. We'd go out to dinner. And I think of some of the times that he got to know me and got to ... Started to probe my interests, and started to challenge me to try something, or frankly gave my name to somebody in Washington to be invited to be on a committee that was primarily going to operate out of Washington but they did want a regional voice here or there, which not only allowed me to have a voice in some aspects of what was happening at the ... And this is long before I was a regional director.

Merri Jo Gillette:

It allowed me not only to have a voice in some things that were going to affect regions, and were going to affect the agency as a whole, but also to build relationships, and profile, and credibility with leaders in Washington who maybe might think of my name for the next opportunity, but who would've otherwise never known me because I was some staff attorney listed on a list in Philadelphia. And Jim, I just cannot say enough about, he was all in committed to, A, the development of people so as to leverage that, to serve the needs and the mission of the agency, in ways long before it was called out formally as something that was important to do.

Merri Jo Gillette:

And I don't know anybody who got to the regional director chair, at least through my tenure, I can't speak to the more recent years, who did not have some version of that relationship with Jim, and/or really benefited from his mentorship and support once they were in the chair to get oriented and to think about how to best use the resources that they had available to them to promote the best for the office, and also for the Commission more broadly.

Ken Durr:

Great. Well let's move into your period in Chicago. Any notable cases? Things that were landmarks for you and your people in those years?

Merri Jo Gillette:

So I'm going to touch on a couple. There were many, many, many. Like I said first, it was a huge office. So the number of cases that were being generated out of that office were significant, and part of that was just because of the sized staff we had. We had approximately 100 enforcement attorneys in that

office. So just compare that to when I started in Philadelphia, we had eight, okay, enforcement attorneys there. And then added to that, besides the size of the program, we really had come a long way in building very intentional collaborative relationships with all 18 of the US Attorney's offices scattered throughout the nine states that we were responsible for, other regulators, other SROs. Which again, the importance of that is that folks responsible for ensuring compliance with the laws can't always handle what comes across their desk, or may not have jurisdiction to handle it, and therefore they frequently will make referrals.

Merri Jo Gillette:

But they make referrals to people that they know, or that they ... They don't just call the SEC and say, "Hey, we got this case. Can you help us?" They say, "Who do we know at the SEC? Do we know anybody there that we think could do this? Okay, let's call them." And so some of that also grew out of our very intentional work to cultivate and nurture those relationships. So I'm going to just mention a couple. One that I really want to mention is the Hollinger International case. It was a case that had already ... It was already in the works when I arrived in 2004, and had been just amazingly investigated under some really trying circumstances.

Merri Jo Gillette:

Hollinger International was owned and being run by someone that you all may have heard of, or if you just Google it, you can read some very interesting things about him named Conrad Black. And Conrad Black was doing a number of different things, not just in what we were investigating him for. But the reason I call out that case as something that really was a testament to the great work of many people in that office, is that not only did we seek, successfully, sanctions against Mr. Black and the companies, and some other ... A couple other individuals who were working with him, but we did something that had not ever been done before.

Merri Jo Gillette:

And it was ... There was a lot of concern inside the agency before we got authorization to do it about what the implications could be and whether it was that the SEC should be doing or not. And so what we did was the Commission authorized us to seek an order from the Federal District Court to impose a voting trust on the shares of Hollinger International that were held either directly or indirectly by Conrad Black and the company Hollinger itself. Which took away from them for a period of time, I mean, it wasn't a forever to the end of the ... A pretty long period of time, the ability to continue to manipulate assets and to misuse certain assets, thereby defrauding public shareholders, while there was an ongoing investigation by their international audit committee and board of directors.

Merri Jo Gillette:

And as part of that order, we were successful in persuading the court that it would need to maintain this special committee and trust in place to continue ... Because this was before the case was over, this was interim relief in the middle of our own investigation. So we had determined, and the court made findings of certain violations, but we knew there was more to be had. And so the special committee of the board was also charged with continuing to investigate this alleged misconduct, and to try to recover and maintain corporate assets until it could be sorted out whether any of those needed to be returned to shareholders. But in advance as a proactive measure, we sought authority from the federal district court that if the special committee's authority were in any way impaired, including by a change of

control of the company, that the court appointed ahead of time, and named, a special monitor who would then step in and take over control of all of the assets and the ongoing investigation.

Merri Jo Gillette:

And that special monitor named in advance was Richard Breeden, former chair of the SEC. And all I will say is that if you ever have time, find the articles on Conrad Black, and he was eventually knighted, and we were coordinating with the Canadian Securities Commission around this because some of the conduct was going on in Canada. Really interesting articles, depends how juicy you want to get. You can read some Vanity Fair articles that get into all kinds of stuff about what drives the man. But if you ever read anything about him and learn some of the juicy stuff, even from an SEC standpoint, how his people were caught on tape physically coming ... Breaking into the building and physically taking out file cabinets and boxes full of documents to steal them.

Merri Jo Gillette:

And then anything about Richard Breeden, all I will say is Conrad Black had met his match. And the fact that the staff was able to devise a theory around a basis for that kind of order, which had to flow from the court's equitable powers, which the court does have broad equitable powers under the '34 Act if you're in front of a Federal District Court, but that doesn't mean they're always comfortable exercising them in ways they've never been exercised before. Persuade the commissioners that, A, this was needed, B, it wasn't overreaching, and C, it was the only way for us to protect public shareholders. And then to persuade the court to put it into place, that was a testament to the creative, and tenacious, and really brilliant lawyering of the team of folks that worked on that case. So I always want to call that one out and mention it.

Merri Jo Gillette:

Another important case that was brought was the case that was brought against the State of Illinois that charged the State of Illinois with misleading municipal bond investors about the funding of state's pension obligations. And I'll just say, as a footnote, that in the history of the SEC, the SEC has sued states twice. Number one was the case that was brought against the State of New Jersey by a team that I led in the Philadelphia office. Different details, but very similar. It had to do with manipulation of how they were accounting for the assets to support the pensions of certain municipal pension funds in New Jersey. And two, against the State of New Jersey, which we brought out of the Chicago office. [crosstalk 01:27:10] The State of Illinois. Yes, I'm sorry. Yes. The state of Illinois. So I want to call that one out.

Merri Jo Gillette:

There were just so many amazing cases that were brought there. There were cases brought against some of the actors up in the Twin Cities. So it became sort of a domino effect suite of cases. But after Madoff, about a year or so later, we started hearing about this guy named Tom Petters up in the Twin Cities area. And the allegations were that he was running sort of the next largest Ponzi scheme after what Madoff had pulled off. And ultimately we were successful in bringing cases, not only against him, but against some of the feeder funds that invested their client's money into his funds without doing adequate diligence. We coordinated with criminal authorities, a number of people were criminally indicted and served time for that conduct.

Merri Jo Gillette:

Another big one would be the case against Kwame Kilpatrick in the Detroit area. He used the former treasurer and investment advisor to the city's pension funds. And that really turned on a pay to play scheme relating to the investment of the city's pension funds. So not the state, but the city of Detroit. He also served time criminally for that, but we brought the civil case on that case. And often as people who are familiar with SEC investigations are well aware, where there is conduct that may be criminal, or even is almost certainly criminal, in the investigative stage before it becomes public, the SEC, if it legitimately also has its own jurisdiction, separate from the criminal jurisdiction, has some tools to investigate and compel the production of evidence, which it can then share with criminal authorities if in fact it bears out that there's criminal action going on, criminal conduct going on. And so it's not that unusual in some of these large cases that turn out to have a criminal aspect that often the SEC staff have done the lion's share of the development of the facts.

Merri Jo Gillette:

Not only because they have the tools to compel the production of the evidence, but also because they have specialists who have been trained specifically to build these often very document intensive cases. And in some criminal districts, although this is changing and getting better all the time, but I would say when I first started if you were talking to a US Attorney's Office outside the Southern district or the Eastern district of New York, the likelihood that you would find either agents, meaning coastal agents, or FBI agents, or others supporting investigations, or an office who really knew how to and had experience in building, not that they weren't capable, it's just that there's ways to do it that the SEC has sort of refined over the years, because that's what they do all the time. And it was much more difficult for some of those offices to really tackle that conduct.

Merri Jo Gillette:

And if you look back in time, you frequently will see those cases that today might be indicted as a securities fraud case, being indicted as wire fraud or mail fraud cases. Even though if you read the facts and you were a securities lawyer, you would say, "Well, there's security fraud here too." But every US Attorney's Office is an expert in how to build and indict and win a wire fraud or a mail fraud case. And frequently securities fraud cases can also satisfy those elements. That's something that you've just seen develop over time. And particularly in geographic areas where the SEC office has really built strong partnerships with the local US Attorney's Offices.

Ken Durr:

Okay. So it wasn't the US Attorney's office in the Northern district, Illinois, that you were working with on Kwame Kilpatrick?

Merri Jo Gillette:

Michigan, Detroit area.

Ken Durr:

Okay.

Merri Jo Gillette:

So we had not ... There were nine states. There are still nine states within the ... Midwestern states within the jurisdiction of the Chicago office. And during the time that I was there, I mean, just to tick them off, if anyone cares, for Chicago, it's Minnesota, Wisconsin, Iowa, Illinois, Indiana, Michigan, Ohio, Missouri, and Kentucky. So the Chicago office covers all of those states. And I was there, one of the things that we initiated was a regular once a year meeting between the US Attorney and their number two person and myself, and my number two people, collectively as a group for all 18 US Attorneys' offices across the district, and then what came out of that was we assigned a liaison out of the Chicago office to be the point of contact for every ... A separate liaison for each of those separate US Attorney's offices, so that if they needed training, we could send a team up there and help train them in certain areas.

Merri Jo Gillette:

If they needed us to detail somebody to them, to work on a grand jury investigation in an area that they were less familiar with, they could make that request. Whether the person was the liaison would have the answer or not, they would get them to the right person so that they knew how to do that. And some US Attorney's offices are geographically situated in places where there's a more natural conduct that you're going to find that is also has SEC jurisdiction and, others, not as much. So I wouldn't say that the fruits of that in investment equal in every district.

Merri Jo Gillette:

But I, it was something that, that we felt was important. And frankly, I was really encouraged by the openness of these US Attorney's offices and also being open to doing that. We also would, would partner with them periodically to do things like investor education seminars, where we'd have a day of programs and invite people from the public in, and we would provide speakers, and case studies, and they would as well. So that's some of the soft stuff you do to just kind of be out there in the community, not related particularly to any case.

Ken Durr:

Okay. You mentioned Madoff, and you mentioned Petters, and one of the things the regions did was they went out and found Ponzi schemes after Madoff. But the other thing was Robert Khuzami coming in and essentially enlisting the regional administrators at the regional directors and kind of reinventing enforcement. And I want to talk about your role in that process. I understand, I've seen a reference to a meeting down in Southern Maryland, where everybody got together and, and talked things out. Do you remember that event?

Merri Jo Gillette:

I was at so many meetings like what you just described that I don't have a single meeting in mind. But so I'm sure whenever one you're thinking of, I was probably there, but I'm not [inaudible 01:34:50] I that's the best way I can answer your question.

Ken Durr:

That's fine. Tell me how that played out.

Merri Jo Gillette:

So actually before that happened, when the Madoff report was issued publicly, so it was available, one of the things, and I can't speak to what other regional directors did, but one of the things that I did in Chicago was to ... Well first of all, I read it covered to cover to see if Chicago the Chicago office was mentioned at any place in there to be perfectly blunt. And we were mentioned in one footnote about how we referred something to somebody else that we found that looked amiss. And I breathed the sigh of relief.

Merri Jo Gillette:

But then I provided access to it to in particular, my exam program, it was also available to my enforcement managers, but the reason I initially targeted the exam managers was because some of the misses had occurred as a result of when and how Madoff's firms were or were not examined. And I started with the charge to the staff to say, start by reading it. And when you've done that, start getting together in some small groups and start brainstorming around, what can we learn from that? And then we're going to come back together and we are going to really think ... And I said, I told them, I said I'm very happy to report that I couldn't find anything in there that suggests that the Chicago office has egg on its face, so you can take 30 seconds or less to exhale but the reality is that we are all on one team and anything besmirches our program, or our effectiveness as an agency, affects all of us. And so we are going to own this and tackle it together with everyone else.

Merri Jo Gillette:

And part of what came out of that, and I know I'm going to go in a different direction on enforcement, although there's a piece of that. But one of the things that we did, ... This was over about a six to eight month period, so I don't mean to suggest I handed out the report. I said, everybody think about it. And then we came up with this magical solution is that my exam program, so that was about 140 plus people between the investment advisor side and the broker dealer side, began an exercise of breaking up in ... And let me just give credit here at the time, Jane [Jarko 01:37:34] was the senior person overseeing the '40 Act exam program. And she really came up with this idea, and to a large extent facilitated it.

Merri Jo Gillette:

And what we did was we divided people into groups and we asked each group to spend time really thinking strategically about what went wrong. How would we do things differently now that we know what we know, and how should we be thinking going forward? And I'm going to really shorten this story, because there's a lot that went into it. But one of the things that became identified through that process by multiple different groups independently was the fact that at that time, the SEC had no electronic platform or workbook to scope exams or to keep what would be the equivalent, for example, of auditors work papers. Everything was manual. And eventually, because we started with a number of groups, then we'd get together, all the groups would report to the other groups. We'd see some groups are overlapping, okay, let's conflate those two groups together. We got down to kind of a core thrust.

Merri Jo Gillette:

And what came out of that was the Chicago office staff on the exam side designed and built in Access, because that's all they had. They couldn't do it on a web-based platform. An electronic database for use in exams, which then was piloted the next year by all of the exam programs across the country. And ultimately then the agency ascribed money in the budget to have it built out by a vendor as a web based program, and it is now the electronic program that is used in all exams nationwide. And the Chicago people, people who wasn't in their job description, could have said, "I'm going to do my 42 exams that's

assigned to me for this year, and sorry, I'm out of brain power after that." Really, really, really put their heads together. There were some just amazing thinkers and designers that with no formal training, but just a desire to solve for this, who did that. So I really want to call that out. That was [crosstalk 01:40:09] I'm sorry?

Ken Durr:

[crosstalk 01:40:12] What's it called?

Merri Jo Gillette:

A couple of different names. I'm sorry, I'm blanking on what it was initially. [inaudible 01:40:22] still named the same thing that it was. They've renamed it, I apologize, but-

Ken Durr:

No problem, I'll look into it. So you've talked about working within the Chicago office.

Merri Jo Gillette:

Right. That was within Chicago, separately ... And I think actually now that I've told that little story about my exam staff, I think I might know exactly the meeting that you were describing. It was an early on meeting that Khuzami called with all of the senior officers in the Division of Enforcement. So what that translates into is the associate directors in Washington, in the front office, and in the regional offices, the office heads and whoever the deputies were over the exam ... Excuse me, the enforcement program at the regional level.

Merri Jo Gillette:

So Chicago, we had two deputies, Tim Warren and Bob Burson, and myself. And we went to this conference room. It felt more like ... I don't know, it was very stark. We didn't have very many breaks. It was not an uplifting meeting. And we basically had to put our heads together and say, "Okay, where are we going from here?" And it was a very preliminary meeting. There was an outside consultant who had been brought in who had some ideas, but not expressing them a lot in that meeting, just really listening for the most part and facilitating a little. People were in varying states ... When I say people, attendees at this meeting were in varying states of openness and willingness to share in an open room versus sitting back and waiting to see who was going to talk first.

Merri Jo Gillette:

So very, very preliminary and what came out of that, and it wasn't just the regions. They did include the regions, but there were also the front office, senior officers in the Division of Enforcement in Washington were part of that as well. What came out of that was a decision that there was going to be a steering committee created to really take a look at how we were going to solve for, how we were going to try to ensure against having another Madoff fiasco occur. But as part of that, I think there were some general concepts that were agreed upon at that meeting. I might be conflating that meeting with the first three meetings or whatever, but generally I think there was some alignment to the concept that we needed fewer people in supervisory roles and more people with what we call boots-on-the-ground, going out and doing the hands-on enforcement work.

Merri Jo Gillette:

Another way to think about that, and I think the way we might have articulated it when we later did a similar exercise for the exam program was how do we take a finite set of resources, whatever that's going to be, and think differently about how we allocate those resources? So with the objective, I would say at a high level of trying to ensure that the greatest number and quality of resources... Let me back up for a minute. Starting premise is you have to accept that you're never going to have all the resources that you need to cover the waterfront. So how do you to mitigate and minimize the risk that is inherent in that fact? The general consensus was we need to figure out a different way of thinking about where and how we allocate our resources to ensure that the highest number and greatest quality of resources are directed to those areas where there's the greatest degree of risk, which is a pretty basic concept, but not one that we had really consciously and intentionally articulated in the past.

Merri Jo Gillette:

So there was a steering committee set up of a number of people, and there were people... I think for the most part, people volunteered to be part of it. There may have been some people who were voluntold to be part of it. I'm not sure, but what I do know is that Rob Khuzami asked me and David Bergers, who at the time was the head of the Boston Regional Office, to co-chair that committee and the work that we did went on for, gosh, probably 18 months before we got to the point where there were recommendations that were going to begin to be adopted. Then we spent at least another year negotiating with the union to be able to begin implementing some parts of it. Some parts could be implemented without further negotiation with the union, but not all aspects. That was a very interesting exercise.

Merri Jo Gillette:

People who we were getting input from had varying perspectives. Some people were very resistant to any kind of change, felt that if were to make some major change based on the Madoff situation, that that was a reactive as opposed to a proactive way of running our program. So you had to meet people where they were, and there were subcommittees that looked at certain things and brought recommendations back to the larger group. We held a number of listening posts around the country with people on the staff at all different levels. Of course, there were any number of outside the agency people who had opinions on what it should be doing. Some of them were academics and wrote articles or wanted to come and talk to us, and so we had to just sort through all of that and navigate where we wanted to come out. I think that Rob Khuzami went into that initial meeting and exercise feeling strongly that we needed more enforcement staff. By that, I mean staff attorneys at that level.

Merri Jo Gillette:

I think there was a hope by some that because of the magnitude and impact of the Madoff, what would've been uncovered through Madoff, that Congress would provide a significantly increased resource allocation that would allow us to hire a bunch more people, but it quickly became clear that that was not going to be the outcome, or certainly not at the levels that some were hoping for. So we had to think about, "Okay, let's assume we only get some small increase in resources," or let me put it a different way. We didn't assume that hard stop. We had to explore a number of different scenarios and had to do scenario planning. One of those scenarios was we get very little in the way of increased resources, or we get zero in the way of increased resources. Then what do we do? Because we're still going to be accountable on the backend for what happens.

Merri Jo Gillette:

There are two really significant things that I would call out that came out of that as to the division of enforcement, and again, over a long period of time and lots of back and forth. One was the elimination of the branch chief role within the Division of Enforcement. That had the very pragmatic impact of taking an entire layer of supervisors, stripping them of their supervisory or responsibilities, and returning them to being boots-on-the-ground attorneys. Thereby, you've got zero more resources. You now have increased the number. To what effect? That's debatable, but the number of boots-on-the-ground staff attorneys. That was a very controversial...

Ken Durr:

Is that the one that got the union involved? That measure.

Merri Jo Gillette:

Many other [inaudible 01:49:07] program, but yes, the union got involved in that one. I mean, there's a collective bargaining agreement. Management can't just do things willy-nilly if they're not within the four corners of the collective bargaining agreement, unless they negotiate for them. So that was one. That certainly did not improve the morale of the then-current branch chiefs or the very high-performing experienced staff attorneys who were hoping that their next stop was going to be to become a branch chief. Because now they've just been knocked back down the totem pole a little bit. So part of what we were charged with was not just coming up with, to use that as an example, a decision or a recommendation, because it wasn't our decision, but we were recommending that could perhaps be a solution, but how are we then going to lead through that and roll it out and implement it in a way where the potential benefit is offset by some cost that like if everybody just goes on a work slow-down or the union sues us or fill in the blank, then that's not a net plus.

Merri Jo Gillette:

We had to work our way through that as well. The second big thing I'll call out is the decision to create these specialty units. There were also a number of aspects around that once there was a decision to go in that direction, that required negotiation with the union. But that was the ultimate decision, I'll save you the making the sausage part of how we got there. It has continued to evolve over time since the first rollout. Initially, there were five specialty units that were named and one of the things that was messy, I guess, that's probably a polite word for it, once we decided to go that route was that the specialty units had separate senior officers who were responsible for leading those units. So before the creation of specialty units, you had senior officers in each regional office that were responsible for the enforcement work done in that office and senior officers in the home office who were responsible for the enforcement work that was done out of the home office.

Merri Jo Gillette:

Now, you have these folks who were the head of specialty units, which were virtual. By that, I mean, they didn't have a geographic footprint. The specialty unit could be comprised of people from all over the country, some of whom had to come to work in the Chicago office every day, some of whom had to go to work in the LA office every day. The specialty unit head might be sitting in the Philadelphia office every day. So then how you had reporting lines and how you both empowered the specialty unit heads to be able to be successful and, frankly, also accountable on the backside while you actually still needed the cooperation and support of particularly the regional offices. That's where it started to get messy.

Just on that last point, I mean, what I'm going to say is going to sound a little crass, but it's true. Number one, and number two, it will make the point.

Merri Jo Gillette:

So for example, if I had six or eight people who came to who lived in Chicago and came to work in an assigned office in the Chicago office and whose actual slot for them to be hired is assigned to the Chicago office, and now a decision is made because they apply to be a member in a specialty unit. Now, they're responsible to a senior officer elsewhere. They still have to have some place to come to work every day. I still got to pay for the real estate that I have to rent to create space for them. They need legal assistance to support them. The specialty units had none. They have HR work that has to be supported. The specialty units did not have that. If the cases the specialty units bring do not settle, somebody's got to try those cases. If that case is a specialty unit that's going to go to trial in the Northern District of Illinois, guess whose trial resources are going to be going into court on that? Chicago.

Merri Jo Gillette:

So while people could get conceptually on board, we weren't structured or resourced fully to be able to just pull trigger on that and have it quickly fall into place. So there's been messy parts to it. I think in some [inaudible 01:54:20] and for some units [inaudible 01:54:22] implemented more smoothly and to greater success than in others. The decision was ultimately made that for initially, so they have evolved some of these things, but initially, if you were selected to be part of a specialty unit, but you happen [inaudible 01:54:45] to be the day before you were selected on the Chicago office staff, you would have both a dotted line of responsibility to the people overseeing your work in the specialty unit and a dotted line responsibility to people around certain aspects of your employment and your responsibilities to people in your home office, which was the Chicago office.

Merri Jo Gillette:

This is for people who are used to being in very clearly defined hierarchical, they only report to one person. Frankly, the government's performance evaluation system is structured to serve a format where every employee has one manager or supervisor who's responsible for their performance review, their disciplinary action there. So it was messy, but we got through it. I mean, that's all I can say. There were people that weren't happy at the back end. There were people that had new opportunities before them who really blossomed in that setting. Like I said, the agency has continued to try to evolve both how they think about the specialties and also how they've implemented them over time.

Ken Durr:

Yeah. I think [Donnie 01:56:05] tried to sell this as matrix management or something like that, but it seems that the regents might have been in a good position for this because, after all, you'd already had multiple lines of communication because under... You had people working for enforcement in Chicago, you had people working for [inaudible 01:56:25]. So in that respect, did...

Merri Jo Gillette:

No, they were all working for Chicago for Merri Jo Gillette. They happened to be okay and I was responsible to enforcement into OCIE and let me just tell you, I don't say that only from the regional office perspective. If you asked somebody who was in enforcement in Washington DC or in OCIE, OCIE not as much. OCIE actually saw the light sooner and started to adjust their words and their ways of being

sooner than enforcement. They would say Merri Jo Gillette in Philadelphia, forget me being an office head. Yeah. She works for the Philadelphia office. They wouldn't say she works for enforcement.

Ken Durr:

Right, right. But I'm thinking about the people in enforcement, in OCIE who are in the region. I guess I'm just getting to the idea of whether the...

Merri Jo Gillette:

There are none. That's my point. The people who are in the region are not in OCIE. They are in the region and then the regionals... Now, that's changing and I think it's a good thing. But at the time, I just want to be clear what my point is here, not to argue what it should or shouldn't be. But at the point in time when we moved to these changes in structure like specialty units, the culture and the way of where people thought about and the way in which the performance management system placed them in the hierarchy around whether they worked for Chicago or worked for enforcement or worked for OCIE was not ready for people in Chicago to say, "Yeah, I work for OCIE."

Merri Jo Gillette:

There was a strong cultural pride amongst many of the people in the regions, not all, and not all regions, where they took pride in saying, "I work for the Chicago office." They did not consider it an elevation or a star in their cap to say, "I work for OCIE or enforcement." No, not everybody. I mean, different people have different views. So it was another aspect of change management, frankly, and mindset shift that had to happen in terms of how people thought at every level about what their greatest opportunity for contribution might be.

Ken Durr:

That's great. I'm glad you pushed back on that, because I really do want to get the sense of what the culture was like and how the culture's changed over time. We're running up on a couple of hours here and I want to...

Merri Jo Gillette:

Sorry.

Ken Durr:

I want to make sure to get into some of the things that happened toward the end of your career and [inaudible 01:59:08] curricular stuff. You were involved in some diversity initiatives. The first one started in enforcement, is that right?

Merri Jo Gillette:

Yeah. I was involved in some informal stuff from early on just because I was an agitator on this issue. I tried to do it politely, but the point is I wasn't waiting for a formal opportunity. The first formal opportunity came, and I was still in the Philadelphia office when this occurred. At an offsite meeting that was being led by Steve Cutler, who was the director of the Division of Enforcement, and we had all gathered in Denver. We all being the regional office heads, the heads of enforcement from each regional office, and all of the senior officers in enforcement in the front office in Washington. The topic just came

up about how we were doing and how we felt staff in the division, particularly people of color and women, might be feeling about whether their contributions were valued and recognized and so on.

Merri Jo Gillette:

What came out of that was the decision by Steve Cutler to create a Diversity Committee, I think that's what we called it at the time, just for the Division of Enforcement. It was 12 people. That was the first very formal effort on that part that I was directly involved with. After that, the agency began moving forward with some more formal work in this area. I did have the opportunity to serve on some national diversity committees and, frankly, even to chair some of those national diversity committees. But again, still in what I would say were pretty early days of the diversity efforts at the Commission. That second phase started under Chairman Donaldson, but actually what was done under Chairman Donaldson was he committed to it and funds were allocated to bring in some outside consultants to begin to gather data so that we could level set where we were and then Donaldson left and Chairman Cox came in and the establishment of some of the next iteration of committees happened under Chairman Cox.

Ken Durr:

Okay. This is when we get to the SEC Diversity Committee on Mentoring and Professional Development. Does that sound familiar?

Merri Jo Gillette:

Yes. There were five different committees under Chairman Cox that were done. That was one of them, yes.

Ken Durr:

Okay. There was also an Office of Minority and Women Inclusion.

Merri Jo Gillette:

Yeah. That was required under or [Dodd 02:02:14] Frank. So that was not something that sprung up out of the diversity work. Although, obviously we were collaborating and coordinating with that office. I was involved the interview panel with selecting the first head of that office. But it was something that was required of certain government agencies, particularly in the financial services oversight area as part of Dodd Frank.

Ken Durr:

Okay. Sounds like the unofficial initiatives would've started somewhere in the early to mid 2000s or so?

Merri Jo Gillette:

Yeah.

Ken Durr:

So you were there until 2014. So did you see a change? Were these programs able to exert some influence during that time?

Merri Jo Gillette:

Well, okay. Yes, it's all relative. So when you have nothing, anything is a change. When you have nothing, you got to start somewhere. You've got to take the first step. So I don't say that to take away from anything that happened. There were really committed people. There were some really intentional efforts, but I would say that progress was slow. Frankly, if you look at not just the SEC, but at the financial services industry, you still see that there is a lot of work to be done there to really tackle these issues in a meaningful way. I don't think that it's... It's a complex issue to, and you can attack it on lots of different levels. You can say, "Okay, how do we make the place that we're working," wherever that is, SEC or otherwise, "A place of belonging and a place of inclusion for all." But if you don't have all there yet, then you're really making it for whatever, the small number of people who may most benefit from this. When you're doing it, trying to do it in an industry or an industry sector where historically we're behind...

Merri Jo Gillette:

Where in my view, we're behind as an industry in where we ought to be. So the people who have the experience, the people who have had the training, the people who get recommended as top talent are all coming out of this pipeline that has not intentionally been disrupted in a way to create greater opportunity and diversity in the pipeline. It tends to just repeat itself. So I mean, I'm talking actually about a broader issue than just for the SEC. I have no question that there's absolute commitment and there have been some people over the years who have done some amazing work, the effort that was put together by a group of people in Washington, and I think it really arose almost out of a grassroots recognition and then commitment of a small group of people who then recruited others to meet with Howard University's Law School, because they did not have a securities regulation course at that time in their curriculum.

Merri Jo Gillette:

To say, "We would like to be able to offer, for example, internships to more of your students, but we're not getting applications from very many, and when we do, it's hard for them to be competitive against some of the other law schools in Washington." There was a group of people that worked with Howard to design a curriculum that Howard decided they would then give credit for and senior people at the SEC, multiples of them, volunteered on their own time to teach segments of that course, to develop the materials, to do all of the things that they had to do, jumping through the hoops based on the government side, and also working with Howard on their side of the equation to make that happen. That was no small effort. It was tangible and it moved the needle. I don't know how that effort has carried forward and impacted where we are today. I'm just not close enough to it. I don't say that to take anything away from it. Even if the answer is it hasn't carried forward in a meaningful way, it still was meaningful at the time.

Merri Jo Gillette:

So I think that yes, things have changed, but as with many other places in the world today, they haven't changed as much as you might think. So I can just tell you from personal experience, and I'm not bringing the person of color aspect to the table, but just from a gender perspective, it was not at all uncommon for me to be in rooms inside the SEC in meetings with people from outside the SEC at conferences where I was speaking or not speaking, just attending where I was the only woman in the room, period, hard stop. Today, so I'm 64 now, the number of rooms I'm in where I am either the only, or one of two or three women in the room is still discouraging in terms of a measure of progress. It's

better, but it's not as much better as you would've hoped across a career of 40 years. So I think we all have to own that, honestly.

Ken Durr:

Right. Well, speaking of today, I want to wrap up with just a quick assessment of your decision to move on from the SEC and what that career meant to your subsequent career, what you carried with you over the years since then. Your signal...

Merri Jo Gillette:

[crosstalk 02:08:55] after 20...

Ken Durr:

Your signal dropped.

Merri Jo Gillette:

Can you hear me now? Yeah.

Ken Durr:

Let's start over.

Merri Jo Gillette:

Oh, I'm sorry. For those who are listening who may not know, I spent a little over 27 years at the SEC, surprising no one more than myself that I stayed there as long as I did. I then left and went to the law firm of Morgan, Lewis & Bockius, where I headed up their national securities and enforcement and litigation practice. But after only four years at Morgan, Lewis, I was recruited away to Edward Jones where I'm now Deputy General Counsel. I've been in house at Edward Jones since 2017. So that's where I've been since leaving the SEC. It's hard for me to answer your question in only one dimension. So I'm going to take a little liberty and, I think, answer it in two dimensions.

Merri Jo Gillette:

There is no question that my experience at the SEC positioned me to be able to represent clients, facilitate and expand and challenge others to stretch in the policy discussions around issues that relate to the securities laws in the SEC in ways that I would not have been as well equipped to do, or where I would've had as much credibility through my voice, as I sometimes find that I can have now because of the time that I spent at the SEC. I hope that that has allowed me not just to go on to the next professional challenge as a next job, but to carry forward and share with others, both my clients, and more broadly, some of the perspective and understanding and values, frankly, that I learned through my practice at the SEC and bring some of that into some of the conversations and discussion in rooms outside the SEC. This brings me to the second dimension, which I feel duty bound to say, but more than anything, it just comes from the heart.

Merri Jo Gillette:

That is that it is not an exaggeration for me to say that I had no idea, and I truly mean no idea of the opportunity that was before me when I accepted the job as a staff attorney in the Philadelphia office. I had so little substantive background and training that would've suggested that I could even be

successful in enforcement, and as I mentioned, was told as much occasionally by others. I didn't know anything about the history or the mission or the importance of the SEC in the overall regulatory framework, but also in terms of how it influences our capital markets and our economy in this country. Yet, through some combination of fate or good luck or something, I ended up there and it truly was by grace that I had the good fortune to meet the people and embrace the work that allowed me to come to understand all of the things that I now can see and understand.

Merri Jo Gillette:

I am incredibly grateful to individuals, to opportunities that were offered to me, honestly, to the training that I got there to think strategically, to think analytically, to connect dots across lines, to remember that the mission of the SEC is not solely to protect investors, but also to invest in fair and orderly and efficient capital markets and to facilitate the raising of capital in our economy. So here's my admission. For people who know me, and there are a lot of people who do, I think that probably without exception, most of them would say, "Merri Jo is not a follower. She was rarely somebody who just signed on and went along to be get along." In fact, I think a lot of people would describe me as a contrarian or somebody who was constantly poking and challenging and questioning to the status quo to explore how we could do it better. I didn't go there because I really understood or believed in the mission of the community.

Merri Jo Gillette:

But my admission is that over the course of my career at the SEC, I became nothing short of what I would call a true believer in the importance and the need for and the mission of that agency and I will continue to try to share my perspectives and poke and prod and push where I think that we can do better or where they can do better and to keep the dialogue going because I just believe as deeply as I could even imagine in the importance of the mission and the existence of the agency and also in the broader impact and potential for impact on policy and on our economy.

Ken Durr:

Well, that's a great place to wrap up. I appreciate your poking and prodding me a little bit, and the passion that you've put into this discussion. It's been great to talk about the Commission. So thank you very much.

Merri Jo Gillette:

Thank you, and it's been a pleasure. I'm sorry we probably well went over our time, but I'm sure you'll take care of that with the editing.

Ken Durr:

Worth every minute, thank you.

Merri Jo Gillette:

Thank you, Ken. Bye.