

## SEC Historical Society

### The Anatomy Of Securities Legislation 14th Annual Meeting Program June 6, 2013

**BRUCE BENNETT:** Good afternoon, and welcome to the 2013 Annual Meeting of the SEC Historical Society. I am Bruce Bennett of Covington and Burling, and I am the 2013-2014 President of the Society. It is my pleasure to welcome you here today, both those of you here in the SEC's auditorium, as well as those watching us online at [www.sechistorical.org](http://www.sechistorical.org).

Today's program is entitled The Anatomy of Securities Legislation. This will be a permanent part of our unique virtual museum and archive on the history of financial regulation, and will be linked to the museum's 11th Gallery, The Boundaries of Functional Regulation. That Gallery will be opening on December 1<sup>st</sup>. The museum is now in its second decade and is recognized as the trusted and authoritative source on the regulation of the capital markets, and the financial markets generally.

Last month, we were pleased to welcome our 1.5 millionth visitor, that's the right way to phrase it. We currently serve more than 1200 visitors a day from a wide range of users, academics as well as practitioners, regulators; we see a lot of use of the museum from a lot of different areas. We are proud of the museum. We continue to be committed to expanding its collection and enhancing its outreach, and programs such as this are just an example of what it is we are able to do.

The support of the museum is made possible through the generous gifts of many individuals, corporations and foundations. I am grateful for all their helping us share and preserve the museum's valuable knowledge and enabling us to continue with our mission, as we document and preserve the history of financial regulation. I am also grateful for the many people who serve us, volunteer leaders for the Society. I am just beginning my tenure as President. Let me recognize my fellow officers for the coming year. Bob Kueppers of Deloitte who is our Chairman and our past President. Hardy Calcott of Sidley Austin, who is our President-Elect; he will be up here next year doing what I am doing right now. Cyndi Glassman who is our Treasurer. Lisa Beth Lentini of Carlson Wagonlit Travel, who is our Secretary. James Tricarico of Edward Jones, who is our Vice-President of Development, and my partner David Martin, also of Covington and Burling, who is the Vice-President of Museum.

We have three new trustees who have joined us this year, and I would like to welcome each of them: David Lynn of Morrison and Foerster, here in Washington DC; George McKann of Drinker Biddle and Reath in Chicago; and Timothy Ryan of PricewaterhouseCoopers in New York.

Today's program is being held on the 79<sup>th</sup> anniversary of the Securities Exchange Act of 1934, and the founding of the U.S. Securities and Exchange Commission. We are pleased to honor the Commission's staff by hosting an ice cream social at the conclusion of the program to celebrate this anniversary. I invite all staff and guests present today, as well as those staff watching online upstairs, to join us at the social following this presentation.

On behalf of my fellow trustees I would like to congratulate the SEC on its premier role in financial regulation and its sustained tradition of investor protection. The Society is honored to help celebrate the SEC's significant contribution to financial regulation for now nearly eight decades. The Society and the virtual museum and archive remain independent and separate from the SEC, and we receive no public funding, whether from the SEC or other public sources. We continue to be extremely grateful for the close friendship and support that the SEC has given us over the years. It is now my distinct privilege to welcome the Honorable Elisse Walter, SEC Commissioner and 30<sup>th</sup> Chairman, and a former Society trustee, will share remarks on behalf of the Commission.

**ELISSE WALTER:** Excuse me. I am voice challenged this afternoon. So forgive me if I am a bit of a frog. I seem to be losing my voice. It is a great pleasure to be with you today.

I want to begin by saying thank you to both Bruce and Carla for their work in helping the SEC Historical Society to continue to grow and flourish. I really valued my time as a trustee, and I actually was an officer for a while too. It has established a wonderful museum, and has really become the resource of choice for all of us when we are looking to history and I know that many of us in this building look to it frequently, as well as do others in the outside community.

To my mind the museum is not only an important repository of American financial history, it is a tribute to the thousands of men and women who have committed themselves over the years protecting American investors, and ensuring the stability of our financial markets by working at or with the SEC. Your efforts and those of all who contributed to the Society and support events like this one are deeply appreciated.

Today is the anniversary of the Securities Exchange Act of 1934, and the U.S. Securities and Exchange Commission has now been in existence for 79 years. And some days I feel as though I have been here for most of them. But most of the time I am proud of it. I could go on forever about changes that have come to the agency since I first started in 1977. I am proud to say that unlike in the '70s, in this millennium, it is no longer weird for someone like me to leave the private sector to work as a Commission staff member. More seriously we are finally coming into the age where we have the data and analytic ability to significantly enhance the ways in which we carry out our critical functions. There is a stereotype, and in my experience apocryphal of a civil servant who resists change. But unlike that stereotype my colleagues and I welcome change, recognize its importance and have been delighted to help advance change at the SEC, and I have in particular as a staffer, as a Commissioner and as Chairman.

Change keeps us relevant in a rapidly evolving financial world, and it helps us execute traditional and continuing important functions better. Today, changes within the SEC are helping us prevent and redress the kinds of frauds that have existed as long as there had been markets, and they are helping us police markets that had barely come into being back when I started here. Of course there has always been ongoing change in growth at the agency. But what I think is different now is the quality of the changes underway. It is not so much the incremental improvements in quality and capacity that I find exciting, although as with compound interest, these incremental changes add up to a substantial transformation after a time. Rather we are also making changes that fundamentally alter the way we execute our mission. We are embracing new technologies, transforming the way we target, investigate and examine registered entities and suspected wrongdoers through the use of sophisticated custom algorithms. And in a world of limited resources, we are leveraging our capacity in ways that effectively multiply the reach of our staff and bring oversight into places it wouldn't normally be able to go.

We are coming to grips with the fact that, as complicated and as difficult as it is to do, we must function in many ways as an international regulator. As the size of the financial markets and the scope of our responsibilities within those markets continue to expand, we are multiplying our effectiveness with strategies that would have been difficult to execute or even imagine barely a decade ago. For as long as I have been here, the SEC's mission has far exceeded the resources required to carry it out. So we are coming up with in-house technologies that allow us to dramatically expand our oversight without dramatically expanding our staff. As you may know, the Office of Compliance and Examinations has been working with our division in what was called Risk Strategy and Financial Innovation and has just been changed to the Division of Economic and Risk Analysis. Those two divisions have been working to continue to improve the algorithm that allows them to determine which registrants offer the highest risks to investors and target resources on those firms. The result has been a significant increase in the percentage of examinations that yield significant findings of referrals to the Division of Enforcement. In addition, last year, we rolled out the operational performance initiative, which uses public data to find financial advisory firms whose reported results seem literally too good to be true. This too has already resulted in a series of enforcement actions. We will soon be able to crunch the numbers in filings by registered companies and compare their numbers to those submitted by similar firms to see if there is something unusual that needs to be examined more closely. We are even working a tool that will allow us to examine the written sections of corporate filings to discover misdirection in a MD&A section, anomalies that suggest that something is being hidden.

In addition to high tech targeting, we are also expanding our reach by contacting individuals outside the SEC, finding ways to have them work for our team. One way is through our rules. Among our first responses to the Madoff crisis was to adopt regulations requiring that investment advisors with the custody of their clients' assets undergo a random audit each year. We subsequently proposed similar rules applying to broker dealers. We also put in place a cooperation program that gives entities in violation of our rules or the securities laws incentives to cooperate with our investigations and voluntarily take steps to root out the cause of our concerns. Perhaps mostly significantly, our whistleblower program offers significant rewards when high quality original information leads to a judgment of at least one million dollars. In the first year the program, the SEC received more than three thousand tips from whistleblowers. And last summer, we paid nearly \$50,000 to a whistleblower who helped us stop a multimillion dollar fraud. We expect news of this reward to significantly affect participation in the program going forward. Although there will never be a substitute for the talents and expertise of the SEC's professional staff, we continue to need more talented men and women. We now have professionals, insiders and management teams working with the SEC to ensure that laws are followed and malefactors are found.

We have begun to grow into our role as an international regulator. Consider a hypothetical but not unusual swap transaction. One party is in Chicago and the other in Frankfurt. They negotiate the transaction through traders and sales personnel in New York, then book the trade in each company's London affiliate. Which jurisdiction or jurisdictions swap regulations apply? The SEC recently took on the question proposing an approach we call substituted compliance, allowing a foreign entity to satisfy the Commission's requirements in a particular area by complying with the requirement in its own jurisdiction as long as they are comparable to those in place here in the United States. It is a pragmatic and flexible approach that recognized the efforts by other jurisdictions to create their own regulatory regimes while allowing the Commission to require compliance with U.S. regulations where foreign regulation falls short. As passionate as I am about the work we do here, I recognize that, in a global marketplace, the

SEC cannot take a “my way or the highway” approach to regulation. As the importance of international finance and our involvement in it continues to grow, I think this proposal is helping us create a template for future international efforts. Today, the SEC is a bigger player on a bigger stage than ever before. Yet, it is under resourced and over tasked. We are fortunate however that the ingenuity of our staff is making it possible to execute against our growing responsibility while welcoming and harnessing change, deploying technology in unprecedented ways, encouraging outsiders to support our work and addressing global challenges in a practical fashion that makes other jurisdictions our allies in the creation of a stable regulatory structure.

The Chinese supposedly considered the phrase "may you live in interesting times" a curse. But perhaps because I am an old school New Yorker and suspect that that phrase may have originated in a fortune cookie, rather than with a Jin dynasty court scribe, I am thoroughly enjoying these interesting times at the SEC, and I know that the changes that are making these times so interesting, are making us a better agency and what we do for markets and investors. Thank you for having me here today, and enjoy the program.

**KURT HOHENSTEIN:** Thank you, Commissioner Walter. Welcome to all of you. I am Kurt Hohenstein, instructor at the UCLA and curator for the upcoming The Boundaries of Functional Regulation Gallery. The Gallery, I am proud to say, is my sixth for the museum. It will look at the impact of federal legislation on securities and financial regulation, and will permanently open in the virtual museum and archive on December 1<sup>st</sup>.

Today's program - The Anatomy of Securities Legislation - will examine some aspects regarding the actual process of how financial and securities legislation is drafted, discussed, debated, defeated, and enacted. There is an old quote attributed to Otto von Bismarck: "The man who wishes to keep his respect for sausages and law shall see neither made." That process, adding ingredients and mashing them up, squeezing them into preconfigured tubes, either sausages or legislation, is not all that appealing regardless of the tastiness of the end product. But our Gallery, and I think this discussion today, will show a very different picture of that process. I contend metaphorically that legislating is more like weaving an intricate tapestry, different strands of thread carefully put together in a representation of what a group of dedicated public servants and strong willed interest groups seek to obtain.

It's my distinct pleasure to be joined today by two former Directors of the SEC Office of Legislative Affairs. To my far left, Kate Fulton, currently Managing Director of Government Relations at BlackRock, who served as director from 1991 to 1995, and to my immediate left, Jane Cobb, currently Vice-President for Operations at the Center for Audit Quality, who served as director from 2002- 2007. We will talk today in a very conversational manner. So let's start with a discussion by both of you about your experiences. Can you give us an idea of some of the issues perhaps you worked on while you were with the SEC or any involvement with the SEC after you left that Commission?

**KATHRYN FULTON:** I guess I will start. Thank you very much for having me. It's great to be here, and especially in this beautiful room, totally different from the last. It is a privilege to be here.

When I started in the summer of 1991, the SEC and the Congress and the financial world were in the throes of trying to enact financial reform. And also in the summer 1991 we had a significant problem in the government securities market, and as is often the case prompted some legislative action as a result of the Salomon Brothers situation. So, as is often the case episodes can shift focus and all the best laid plans in terms of agendas and priorities can be

changed abruptly in the event there is an episode in the market, and I think that happens a lot here. So the financial reform issue was moved off as a result of the Salomon Brothers situation. Government securities took over a lot of the time. And I think all of us always worked on SEC appropriations and budget issues, and so that tends to be a very high priority no matter what we are doing, and there's unique challenges in every cycle as Commissioner Walter said. It continues to be a major area of focus and priority for the SEC to ensure it has adequate resources, and we had some unique challenges in my era which we can get into.

Investment advisor oversight was another area of interest and continues to be. A lot of concern about the lot of resources in the failure to inspect on a regular basis which was attributable to the lack of resources. So again there was an episode, there was a very prominent enforcement case, the Steven Wymer case. I still remember it prompted Congress to bear down on investment advisor legislation and determine whether we needed more resources. And then when I was at the SEC, securities litigation reform became major issue towards the end of my time. We will get into in more detail later.

**JANE COBB:** Thank you, Kurt and thanks for having me to this program. It is interesting to look back at my experience. It has been about five years since I was here. And in my five-year tenure here, we dealt with a number of different issues. I worked for three different Chairmen. I came in as director under Harvey Pitt, and then served as well under Bill Donaldson and Chris Cox as well. So there were a range of issues when I first got here. It was in the spring of 2002, and Enron, at that time, was, quote "one bad apple," and there was no real sense that legislation would be enacted. And then about a month later, I was at a meeting and all of the people in the room who were SEC high-level staff - Steve Cutler and Linda Thomsen and others in the room – their Blackberries started going off. WorldCom had broken its news, and then Adelphia and Tyco. Sarbanes Oxley was signed by the end of July, just a couple of months after I had gotten here. And that became a huge piece of the work that I did here was enacting that and explaining to the Hill what we were doing to enact it, what the regulations were going to be that would be in place to deal with that bill. So that was a huge part of what I dealt with. There were other things that were going on. Mutual funds, there were some scandals with late trading and market timing that caused a lot of consternation. I took Paul Royce and Cindy Fornelli to the Hill numerous times to educate staff about what these issues were and whether we had the authority or not to deal with them. That was a lot of time spent dealing with that.

Under Donaldson, there was an appetite at the time for more transparency into hedge funds. Donaldson wanted to do more and believed that transparency was important. And that was a big issue at the time. There was a big report that the Division of Investment Management wrote about hedge fund transparency. There were ratings agencies that wanted to come into being and some other market structure issues. GSE's, I remember, were still an issue. I still think today they are issues. A lot of issues the repeat, and it's interesting. But those are some of the big issues that I dealt with.

**KURT HOHENSTEIN:** Okay, so you described a little bit about some specific issues. But there still is a lot of juggling going on here. Could you give us a little sense of what you did? In other words, who you dealt with internally in the SEC and with Congress, and with the Commission and the Chairman, and the kinds of things you actually did. And then the kinds of skills and talents you need to have to do this job well?

**KATHRYN FULTON:** I had the privilege of working for both Chairman Breeden and Chairman Levitt. And I think one of the key skills that we must bring to the position is our ability to enlist the staff to help us do our jobs. Because they all have extraordinary expertise and history on a

lot of these issues, because as Jane said and I had said, a lot of these issues are with us over multiple cycles and the staff here has been through a lot of those cycles. So the first thing I discovered when I arrived here is that I needed to reach out and make sure I knew where the experts were because I clearly was not an expert. I came directly from Morgan Stanley and had some experience, not a lot because I was 29 when I started. And Chairman Breeden used to call me young Kate. He still calls me that because he is still older than I am. I really was grateful and continue to be amazed at how valuable the staff is here in terms of helping us to do our work. So for instance the amount of testimony that we have to prepare is extraordinary, especially in the event of a crisis. And when the Salomon Brothers issue hit one of the first things I dealt with was mediating between the House and the Senate who was going to have the first hearing, and who is going to have Chairman Breeden first and it was awkward to say the least. But there an immediate group of experts who understood that market and could help us draft the testimony and help prepare the Chairman for a multitude of hearings and questions.

And so our job was really to marshal all those resources and make sure that everyone is working well together, and leaving no stone unturned. And obviously liaising with the Hill is our primary responsibility. But we can't do that job well unless we have this substantive expertise the staff here brings to us. So I would say that working well with others is probably the top requirement for this position. And having really good diplomatic skills is another really important attribute in terms of making sure everyone gets along either among themselves or with the Chairman and with the other Commissioners because in order for the testimony we go to the Hill. We have to have five votes or in some cases some other Commission materials you have to get at least three votes, and some Commissioners or some Chairmen worked efficiently and some were not as efficient in terms of timeliness. So there were a lot of circumstances where we had to play a pretty critical liaison role at the Commissioner's offices if they got testimony really late and we needed to send it to the Hill. It was our job to make sure that they were comfortable and that was sometimes awkward. But the Chairman doesn't work alone, they work with the Commission and not particularly the case and the work that Jane and I did. So getting consensus, working collaboratively, working as a team, being the diplomat on behalf of the Chairman was probably the most important attribute both here and on the Hill.

**JANE COBB:** I would echo those attributes that Kate suggested are important. I often thought that it would be helpful to be an attorney. I am not a lawyer by background. But when I interviewed with Harvey for the job, I said, I know the Hill. I spent 12 years on the Hill, but I don't know securities law. And I'm not a lawyer by background. Then he said, I have a building full of securities lawyers. I am a securities lawyer. I need someone who understands the Hill. I think Kate makes a good point in terms of being resourceful. You need to know where in the building to get the expertise to bring to the table. And that is really the key, having the diplomatic skills within the building and also to manage the tensions on the Hill between the different constituencies, some who want something over here and others who either don't want it or want something different. Being diplomatic and being professional is critical. Not having your own agenda that you are trying to push is important as well. You need to be both able to understand and put yourself in the shoes of the Commission and the SEC, and importantly the Chairman who is trying to lead the Commission. But at the same time know that you have to get the other Commissioners on board in terms of testimony. So there are some important skills there. And obviously, political acumen, having that might be the opposite of what a tin ear is. You have to have a sense of where the Hill is and where the members of a committee or subcommittee are. And in terms of the process in getting ready for a hearing, as Kate alluded to, often times, you have a week to prepare. You get that notice a week out. If you're lucky, you get two weeks and you have to turn around a written statement; sometimes they ask for it in 48 hours. Though oftentimes we would be begging for mercy and get it 24 hours in advance.

And so it requires a lot of hard work to pull the resources together in the building, to get a draft together, to get through that through the Commission, turn it around in the form of written testimony. Often times, in terms of the process, you have to prepare your witness not just to testify on the topic that the hearing letter asks you to testify on. You have to anticipate all of the other questions that the members will come to the hearing for. They care about what is happening in their district or their state or the issue that the constituency has come to complain about. And so you have to anticipate the whole range of other issues that could possibly come up. And again, a lot of those are recurring. You take your whole portfolio of issues out, and you refresh those, but then look at the committee membership and say, okay, what else could they possibly be interested in asking? And make sure you have answers. So you are not just going to one division. If it is an issue on mutual funds, you're not just dealing with Investment Management but you are dealing with all of the market structure issues that can come up. And you're giving with General Counsel with regard to whatever legal issues might come up, and if there are regulatory issues that are being implemented, you are going to be ready for those. There is a just great deal of preparation that goes into one hearing. And the staff here, I look back at the number of hearings over my course of five years and if I count it correctly, I think there were 73. But I'm not sure if the website posted some oral testimony as well as written testimony and counted but the postings of testimony on the website. But I had never done that before, to think about how many hearings we had to prep for, but there were a good many and you do, you hold on your processes and the people in the building, you know who to go to and it's important to have those resources here. Very capable resources here.

**KATHRYN FULTON:** Another major responsibility we have is to make sure the SEC's interests are addressed and other pending legislation and that's a major area of interest as the SEC has obviously been very involved in Dodd-Frank and other financial reform. We worked with the relevant staff to ensure that the SEC's view was registered and incorporated as an expert on securities laws. Whenever there were amendments to securities law we wanted to make sure we were there to make sure that, whatever drafting was done, whatever issues were addressed, we are in our interest that there was a lot of true protection going on to ensure that the SEC's interests were addressed. And there was a wide array of legislation that sometimes touched on us that weren't obvious and we were often called by rather obscure committees to ask for technical assistance and we wanted to be there, we absolutely wanted to provide our experts on to review legislation. So that was another big part of what we did.

**KURT HOHENSTEIN:** How big were your direct staffs that you worked with? I'm not talking about the experts in the building, but the people that actually were monitoring the legislation or making you aware of things that were happening?

**JANE COBB:** Just a handful for me.

**KATHRYN FULTON:** Yes.

**JANE COBB:** I think three, maybe four max, and some support staff which was needed desperately to put together notebooks and handle a lot of logistics.

**KATHRYN FULTON:** We had a couple of correspondence people, who all they did was manage Congressional correspondence. I'm sure it continues to be a heavy burden, the amount of legislators who write in and ask for responses. And then we had three in my office, plus support staff. Three career, actually.

**KURT HOHENSTEIN:** So we will come back to the correspondence issue in terms of how you dealt with the Congress and with the demands of Congress and budget issues in just a moment. But were there specific people outside the building on the Hill that were experts that you relied upon or trusted either on staff that had been around a long time and that knew the issues well that you could go to and get sort of the inside scoop on what was happening and what was needed by a particular Congressman? Those relationships also you also worked with?

**KATHRYN FULTON:** Absolutely. I mean, I think during my era, when the committees of jurisdiction were a little different. They were longstanding very established securities experts, particularly in the House Chairman Dingell, when he was chairman then and Commerce Committee. And Ed Markey, who was the chairman of the Telecommunications Subcommittee. They had established and very well respected staff, one of whom had actually started her career here, Consuela Washington. She is retired, but she was a giant on the Hill staff in terms of in terms of understanding the community at large, not just the SEC but the Federal Reserve and all the different players. She was an incredibly important mentor to me, in terms of keeping us abreast of what was going on and where we might be encountering issues and she was very fair in terms of making sure we knew when Chairman Dingell was interested in something. They also had a very aggressive oversight investigation subcommittee, which has changed a little bit, but continues to be a major factor. And I know you had a question about that but they often interacted with our Enforcement Division. So I absolutely had a very talented group of people on the Hill who had spent time. On the Senate side, Marti Cochran, who's a very active SEC alumna, was staff director of the Senate Securities Subcommittee. So we were very fortunate that we had SEC alumni on both sides of the Hill, who understood the agency and cared about its prerogatives. But they were very influential.

**JANE COBB:** I think some of those names were still there by the time I had become director. But there were a lot of new group of young staffers on the Hill as well when I got there. And I think it's great to have that experience and expertise that has built up over time. In the building I certainly found, you know, my deputy at the time, Peter Kiernan, he was just such a great resource for how to deal with this issue in the past.

**KATHRYN FULTON:** Peter worked with me too.

**JANE COBB:** Yes, and he had an incredible memory. He could remember details from years and years ago. And that ability is still incredible to me. But I relied on him a lot and other experts within the building. But what we did was a lot of educating staff. They had a lot of good questions on the Hill, the Hill staff. The newer staff that came in were very smart, so there were quick studies. So it helped form our relationships, and our working relationships by going, they would call and say, can you come and give a briefing on x, y, and z. And you would get the right expert here in the building and you would take them and you would go and give a briefing and answer questions. And so I think I had perhaps more of that and doing that educational piece, but I enjoyed that as well. I learnt alongside of the Hill staff that was learning, so it was great for me. And I also got to know the experts in the building that way.

**KATHRYN FULTON:** I would agree with Jane that the staff on the Hill tends to rely on the SEC, and I hope they still do, as an expert in this space. I think the SEC still enjoys a very strong reputation for being an objective resource for all the staff. And there is a lot of turnover up there. So the young staff feel comfortable calling here to say, tell me about what this means. And they do not worry about not knowing the answers. And they come here to get objective information. I think that is really an important function that the SEC serves.



**KURT HOHENSTEIN:** It sounds like everyone got along wonderfully. I'm wondering about people who were not so familiar with the SEC and the regulation. And you obviously ran into people like that, either you had to educate him or Congressman who were not your friends. And how do you deal with those folks?

**KATHRYN FULTON:** We do not talk about them.

**KURT HOHENSTEIN:** I think that's what they want to hear about.

**JANE COBB:** I think you always take the high road. You have to recognize that they have constituencies that they have to answer to, and that drives their agenda and what they're doing. You recognize that for what it is. You try to just bring the best answer to them. If it is no, it is no. You have to find a way to deliver that message in a way that serves the SEC's responsibilities and its mission and attempts in the best way possible to give you know what they want or what they need but without sacrificing the mission here.

**KATHRYN FULTON:** I found it was very rare that it got personal. I think there was a pretty strong camaraderie between our staff and the Hill staff in terms of our shared mission. And I did not find it to be partisan either for the most part. Well, you might expect the Republicans to be more questioning of what the SEC was doing, and there's nothing like a constituent issue to get a member of the Congress engaged. There were times when the Republicans were as supportive of the SEC as anyone in the event there was an issue that their constituents were interested in. I would say, during my time, the most heated period was during securities litigation reform. There was a lot of frustration with the industry towards the SEC's reluctance to embrace some of what they were trying to pursue. And then the building became rather divided as well among Commissioners and staff in terms of what positions we should be taking, which made it interesting. But I cannot remember a time when it got really personal. I felt fortunate that I always got along with both sides and I think the greatest compliment to me was that no one knew what party I belonged to. I made a point of making sure that I represented the SEC no matter who was in power. I was here when the Republicans took control of the House, which was a major change, as I said, when Chairman Dingell basically had been our primary liaison on the House side. The Senate tended to shift more often; in the House, that was a very dramatic change. But because we had gotten along well with the Republican staff, it was not that dramatic a shift for me when the leadership changed over to the Republican side. Arthur Levitt was terrific at getting along with all sides as well. So he pivoted very quickly, as did we, when Republicans took over the House. Even though, I do have a very vivid memory of one of my friends in the Republican side in 1994 saying, I don't expect any increases in your budget in the near or distant future. In fact, we are going to make sure you get no increases. So that was rather telling.

**KURT HOHENSTEIN:** Of course we got time to talk about budgets. We will come back to some of these other issues in a moment but we mentioned earlier one of the major things you had to was to ensure that you have adequate funding. Were there occasions when the expectations of members of Congress of what the SEC could or should be doing far exceeded the legislative authority or the financial capability? And then how did you deal with that? Then secondarily, how did you go and talk to Congress about budgetary needs of the SEC, especially at times where the fiscal restraint was sort of the theme of the day. How did you handle those issues?

**JANE COBB:** I have to say during my tenure and maybe I have a tendency to just remember the rosy picture. But after Sarbanes Oxley was enacted, there was a sense that the Congress needed to fund the PCAOB, and the SEC in order to really combat fraud and there was more of

a sense of a bipartisan agreement there that more needed to be done. And there was, perhaps, a more generous spirit toward the SEC, at least in the earlier years when I had first started at the SEC from 2002 to probably 2005 or 2006. So I really did not run into huge battles on the funding front. There were some tough questions when we moved into this building, and that got a lot of the attention. But funding per se I think was, we managed through it and it was not as difficult as perhaps some of the earlier threats, when the Senators or Congressmen were not getting their way and they would threaten your funding. I did not have so much of that.

**KATHRYN FULTON:** It is a rather rigorous process that the Commission goes through every year in preparing for the budget cycle and preparing testimony for the Chairman on an annual basis to request appropriations. So it is a separate process than what Jane and I were discussing in the context of the securities legislation, so we move over appropriations which is a whole different culture and so here we are at the SEC asking for appropriations and the bill that a lot of other agencies are included. So we are asking for a number that is part of a much bigger number. And so it was a whole different dynamic in terms of dealing with the appropriations staff, which is interesting. Because their priorities were different. Jim McConnell, who served here for very long time as executive director, was really responsible for pulling together the material for appropriations testimony. And I remember one day he came into my office and said, a F-14 just blew off an aircraft carrier, that is our entire budget. So it gave me some perspective where the SEC stood in the scheme of things in the U.S. government. We actually had a rather acute crisis in 1994. And as you know, the SEC has historically generated a lot of revenue with registration fees. And then the disgorgement that the SEC realizes from enforcement, not treated the same way in the context of the budget. So some on the Hill and elsewhere have always long disputed, or were concerned about the amount of fees that were the aggregate amount of fees that was collected. It was called offsetting collections. Now we're going to get into some technical terms in terms of the budget. And so what happened was that in order to make a point, a point of order was called on our appropriation in that fall because someone wanted to suggest that the fees what we collected exceeded what our budget amount was, which was in violation of authorizing appropriations bill, which is a violation of House rules. So a point of order was raised on our budget and then it was frozen. The White House had to get involved to help us deal with it. It put a fine point on the complexities of the SEC's budget and some group promoted as self funded approach and off budget approach, which generated a lot of controversies particularly among conservative Republicans. Senator Phil Gramm was the leading voice in opposing the SEC going off budget. He just said he was not convinced that enough discipline would be imposed on the SEC if it were off budget as the Federal Reserve is. So, fortunately, we got out of that bind, but it was an awkward time there for a while there. And it was interesting, because it put a spotlight on the unique challenges of our budget. But I did get a really cool letter from the President, which he signed. It is the only one I have of a Presidential pen, because he signed the bill that made sure that we had our appropriation. That was a unique opportunity for me.

**KURT HOHENSTEIN:** So explain again the self funding issue. What was going on?

**KATHRYN FULTON:** Well, I think it probably came up in Jane's era too. Chairman Breeden was very supportive as a way of addressing the longstanding the challenges of the SEC's budgeting process to taking it off of the Congressional political appropriations process and have it be funded entirely by industry fees as the Federal Reserve is. I think Richard had a lot of experience in financial regulation at the White House. He was President Bush's point person on all things financial and regulatory related. So he became quite the expert on the different funding options among the financial regulators. The advantage of going off budget is you don't go through this politicized appropriations process every year and you are not competing, as

Richard would say, bee farms and other things, in the Appropriations Bill. The controversy there is that you are off budget. You are not within the purview of Congress and oversight. The advantages are you have much more control over your resources. But it has been very controversial over the years to take the SEC out of the appropriations discipline. That is really the issue. Did it come up your era too?

**JANE COBB:** It did, and I mean it was just something that the agency would always love to have. Given the Congress, I could never see it happening. I think it's a pie in the sky.

**KATHRYN FULTON:** Certain senators would block it, too. Senator Gramm was pretty clear that he would never allow it to go forward. Because philosophically, he did not believe that the SEC should be outside of the Congressional umbrella.

**KURT HOHENSTEIN:** You mentioned there were often times inside disagreements, or the Commissioners were trying to get majority opinions, maybe even maybe with the Chairman. How did you handle this and could you give us some examples of the kinds of conflicts that you faced in terms of trying to get your job done? How did you manage those kinds of issues?

**JANE COBB:** I guess, a couple of times in terms of preparing testimony, that is when you had to make sure that before it went to the Hill, that all of the Commissioners had signed off on it.

**KURT HOHENSTEIN:** Excuse me, so all Commissioners would have to agree to it?

**JANE COBB:** The prepared written testimony, yes. When you get into a Q&A situation, the Chairman might have some flexibility, or whoever is testifying, to speak maybe for himself and not for the Commission. But the written testimony that you provide to the Hill has to represent the SEC's position. And in order to get that, you would have to start with the Chairman. You work for the Chairman. You start with an outline that represents where the Chairman wants to go, and then you work back from there. There are times when you had to either compromise on the words in the testimony, the tone, or how far you could go or how much you could say. Certain Commissioners would call or e-mail and say, can we say this a different way? Or you I not going to agree to have this piece in there and we would have to negotiate that.

**KATHRYN FULTON:** You really want to have a united front. I would say on almost everything at the SEC is obviously better if it is united. And you have five votes if you have five Commissioners and you ought to give them time. There were a couple of instances where a Commissioner would send up his or her own statement, which was not optimal. But you reach a point where you could not get the consensus and you had to get the testimony to the Hill. And so Commissioners would sometimes send their own, very rarely would that happen. But I would say that probably the most divisive issue earlier was securities litigation reform, and a couple of the Commissioners were concerned about the position the Chairman was taking. So getting consensus on some of the testimony was very hard. There were a couple of instances where Commissioners wrote separate letters when we sent out Commission testimony. And as I said, it was a divisive within the building as well. Chairman Levitt said we were divided between the Huns and the Visigoths. When I left he gave me a hat with horns on it. I'm not sure what side that represents. This was the bill that was the only bill that President Clinton vetoed that was overridden.

**KURT HOHENSTEIN:** So in an attempt to get consensus, how did that affect the goals of the SEC? In other words, you have some strong objection to some either testimony or part

legislation and you have to move around to get some consensus from everybody. Did that mean it was less strong? I mean what was the effect of that? Did it really matter in the long run?

**KATHRYN FULTON:** I think it matters a lot to the Chairman to have a consensus. And Jane may agree with me in terms of, I think is very important for them as leaders to show that they are leading a united agency particularly on difficult issues. I would suggest it is the same with rule making. You want to have the strongest possible vote when you are releasing proposals, that's why yesterday's vote on money market reforms was really welcome that it was a five-zero vote. And I know the both Chairmen Breeden and Levitt like to have 5-0 votes on everything because you want to have united front. It's not always possible. I think it is rare that you have a public dispute. There's a lot of work that goes on behind the scenes to present a united front, and then in order to get there a lot of work has to be done to accommodate concerns of Commissioners and testimonial rulemaking. And a lot of that is not seen by the public.

**JANE COBB:** And I think in some circumstances you can say, we're not all in agreement on this. Here are the issues, and we're working through it. So in the oral testimony you can be little more flexible too, or perhaps, expand on what you got in the written testimony and explain a little more why the issues are difficult and where there may be disagreement. And even sometimes amongst the staff here, there were disagreements, and I'm sure that exists today.

**KATHRYN FULTON:** And it made our jobs somewhat difficult and awkward when Commissioners and staff would talk to the Hill on their own. We can't prevent that from happening even though we like to think that we are the voice of the Commission on the Hill. It is not realistic when people have the wrong relationships. And that made our jobs a lot more difficult sometimes.

**KURT HOHENSTEIN:** For somebody from the outside, like myself, it seems unreasonable that there would be a unanimous opinion. I understand what you are trying to do, but it does not make any sense that everyone would agree inside the building. What we are telling is you worked hard to develop a consensus so that you put the position of the SEC in a unified front. What happened when that did not happen? When a Commissioner did speak to somebody else, or did Congress... anybody in Congress utilize that or did they try to expose maybe what they saw as a break in a particular position? How did that effect?

**KATHRYN FULTON:** Sometimes they would cite a Commissioner's statements or letters that supported their point of view and options determined but the Chairman really drives the agenda of the agency. The Chairman is the spokesperson everywhere, with the media, and with the Hill. I don't think that a Commissioner's dissent can be as powerful as the Chairman's view, most of the time.

**KURT HOHENSTEIN:** Is that how you felt that the Chairman was sort of the driver of the agenda?

**JANE COBB:** Absolutely. Absolutely.

**KURT HOHENSTEIN:** So a strong chairman matters?

**JANE COBB:** A strong Chairman matters. A Chairman will come with certain things that he or she wants to accomplish. And those are the priorities that the Congressional Affairs Office is focused on as well.

**KATHRYN FULTON:** Typically, the media and the Congress want the Chairman to represent the agency in most cases. But the Commissioners obviously play a crucial role in terms of driving the consensus, and they also become experts in other areas because the Chairman cannot be everywhere all the time. And I think the most successful Commissioners have been those who adopted issues that they become experts in.

**JANE COBB:** A lot of times when a position was in development and there was not a final Commission position on a proposed rule or even legislation, the Chairman would let the staff testify, the head of a division to go and sort of educate the Hill on the different issues and thought processes that were taking place. So he was not necessarily put in that position of being definitive at that point. So we would use that as a little bit of a strategy. So when I was looking back through all the testimony and the hearings we did, a lot of it was Allan Beller, and Annette Nazareth and Steve Cutler and a lot of the staff would testify in situations where the Commission as a whole hadn't come to a point where they all had defined their position.

**KURT HOHENSTEIN:** So that was understood on the Hill, when a staff member came up, there it was not officially their position?

**JANE COBB:** There were some protocols if it was a full committee hearing and they wanted your Chairman, you did your best to get your Chairman there. If it was a subcommittee hearing, you had a little more flexibility. The subcommittee too, you think about the progress of the bill or even oversight. It sort of starts at the lower level then it builds and gains momentum. So at those lower levels, subcommittee levels, they are learning, they are in their processes, too, and they maybe not have finalized their position. So it is more of an education. So there was that flexibility that was allowed.

**KATHRYN FULTON:** And I think it is valuable for Commissioners to testify occasionally, too. It was great for us to work with them and for them to understand what went into preparing testimony, and going through the experience.

**JANE COBB:** So you had other Commissioners?

**KATHRYN FULTON:** Once in a while. I thought it was a goodwill gesture on the Chairman too, because it is a great opportunity to help the Commissioner to have that experience and to help them understand the world that we are in. They say, we only want the Chairman, we only want the Chairman but when there were opportunities for the Commissioner to go up, it was a good opportunity for everyone if it worked out.

**KURT HOHENSTEIN:** The education you are talking about kind of worked both ways, educating Commissioners about Congress, and educating Congress about the SEC as well. What about the demands of Congress? You have individual staff responded specifically to Congressional demands and inquiries. What kinds of things did they ask? Were they demanding? Did they want responses immediately? How much time did that take? What kinds of things did you do in terms of dealing with individual Congressional demands?

**JANE COBB:** There were just a huge range of demands from what is happening in an enforcement case, to can you help me draft a legislation, to can you educate me on this type of securities fraud, or this type of derivative, or whatever the issue. There was a huge range of requests and you handled each of them on a one-off basis for the most part, depending on who was asking and what their motivations were. You did try to get a sense before you went out

there, it was really important to try to understand what was driving their request. It would often come in a vacuum and you would get a note on your desk when you got back from a meeting and there would be a call saying: Call so and so, they want to know about x, y, and z. Before you answer the question it is really important to understand their motivations. You really needed to get on the phone or go up there and have a meeting and talk things through to understand where they were coming from, what they really needed so that you could be most responsive. In the case of enforcement, we had a definitive line, I am sure it has always been used. It just is not appropriate to talk about what is happening in an enforcement case until the end of that process. And that was sometimes a difficult answer to give, because there were issues involved that they were either trying to legislate or figure out, and they often got mixed and muddled, and there was a frustration on behalf of the Hill staff, or the member of Congress in the hearing who wanted to know more. I remember there some issues with Fannie and Freddie and of course the fall out from all those Enrons and WorldComs, and Adelphias and Tycos. So there was a lot of appetite for information. What we would end up doing, we would bring some staff to the SEC and we would close the door. We would go into a conference room in the Enforcement division and we would have Enforcement staff give a briefing. They were very careful. They knew how close to the line they could get with what they were explaining. They did a pretty good job of explaining to the staff what the issues were, without putting someone's reputation on the line, or actually defining whether someone they had been investigating was guilty or not. So we would handle it behind-the-scenes as best as possible before going into a public setting or public hearing. We would reach out to them sometimes and say, let us educate you. That was a tactic to try to bring the heat and the temperature down if there was somebody who was really anxious about getting information that we did not feel was right to give at that time.

**KATHRYN FULTON:** The volume was extraordinary, though. I don't know if it was for you, too, Jane, but I would have division directors coming into my office saying, you need to stop this. Because the amount of time that my staff was using where we should be working on rulemakings and no action letters, et cetera to respond to Congressional correspondence is just killing us, you need to stop it, which was impossible to do. Chairman Dingell was particularly aggressive, and you may have heard about the infamous "Dingell grams" that were four or five pages long, with 25 questions and they wanted them answered in a week. This was something that the staff complained about but they would dutifully complete, but it was extremely time consuming for them. Congressional correspondence took up a lot of bandwidth here. The enforcement angle was also awkward in that the Hill, in some respects, some committees has subpoena power, so they would be subpoenaing witnesses, and participants in the same enforcement actions that we were pursuing, and the Enforcement director would come into my office and say, you need to stop this now. That became awkward, because the Hill was talking to the same witnesses that we were talking to, and in many cases would interfere with our investigations, because it was a very aggressive oversight culture up there. We also did many confidential briefings to try to be responsive without compromising our own investigations.

**KURT HOHENSTEIN:** Was it always aggressive?

**KATHRYN FULTON:** It was very aggressive the whole time I was there.

**KURT HOHENSTEIN:** When there were crises or scandals or issues and then Congress took a hard look at things and changed the attitude?

**KATHRYN FULTON:** Well, Chairman Dingell had... there is an article about him today in the paper, he just celebrated his 57th anniversary on the Hill. When he was Chairman of our subcommittee, he would terrorize all the agencies in the government based on the issues that

he thought needed to be addressed thoroughly. We had a great relationship with him, and I hope he was happy with the agency in terms of its mission and its responsiveness. But he would come to us with, we want you to look at x, or we know you are looking at y and we want to know what your findings this afternoon. So it was very aggressive.

**JANE COBB:** There was a period at the end of my tenure where some Senate investigative staff was investigating the SEC and the SEC's Enforcement division about insider trading and whether the SEC had acted appropriately and doggedly enough on certain insider trading cases. And that was a really, really difficult thing to deal with, for me, personally. You are taking staff to the Hill to be deposed or questioned. It is hard to describe it, but that was probably the most difficult part of my tenure here was dealing with a very aggressive investigative staff on the Hill that was investigating our investigators. I mean it was quite something. And at the time, I dealt with that whole experience through the Office of General Counsel. And they were tremendous. Those folks in the General Counsel's Office here at that time, I don't know if they are still here but they had to treat the employees here as if their clients. It was a very difficult, long, drawn-out process, a lot of stress on those staff.

**KURT HOHENSTEIN:** I'm curious, is it difficult because you felt that Congress was doing this without cause? Or because you knew these people personally?

**JANE COBB:** It was difficult for me to know, I mean not being part of the insider-trading case that was being accused of being handled faultily. I had to presume, like I would have hoped that they would, innocent until proven guilty. So my presumption was that these are hard-working Enforcement staff and they could tell their story, but the questioning and the assumptions by the investigative staff were guilty, guilty, guilty. There questions presumed that and it was obvious, and it was really unpleasant in a way that was so personal. And for me to have to take the staff up there -- that was really unpleasant. I would never want to have to do that again. Their questions presumed guilt and it was obvious and it was really unpleasant in a way that is so personal. For me to have to take the staff up there to endure that was very unpleasant and I would never want to have to do that again actually.

**KURT HOHENSTEIN:** And what training did you have to do that before you came here?

**JANE COBB:** That was unprecedented. I mean I would never have to do that.

**KURT HOHENSTEIN:** Let us talk about, if you can, maybe some specific piece of legislation that both of you either followed through when you were here during your tenure? You just talk about the process so we can understand how it came to you and then the kinds of things that you did inside the SEC and on the Hill to massage it through the process. Can either of you just comment on maybe one piece of legislation that you were involved in when you were here with the SEC?

**KATHRYN FULTON:** Probably a good example, this really arose out of a combination of concerns, but one of the chief ones being that there is some very aggressive plaintiffs' lawyers, who some cases brought cases with merit and other cases they did not, but it was creating an immense burden on private sector entities that felt that they were being sued unfairly and too often and causing a great deal of expense and diversion of attention, I would say, from their actions. And so it was aggressive plaintiffs' lawyers and then at the same time, the accounting firms were very concerned about the fact that in many cases in the securities fraud context, auditors and accountants were the only entities left standing if a firm has failed and as a result proportional liability, accounting firms often left with a great deal of liability. So there was a

combination of trying to curb frivolous litigation, address the proportionate liability concerns of the accounting profession, and then a third element was the high-tech community was very concerned about safe harbors for forward-looking statements. So there were three concerns that combined to create some momentum behind some legislation to address all of these issues. And it was controversial, as I alluded to earlier, in the building. We have a unique situation in the litigation context here used to depend a lot on the outside world to help it bring cases. And anyway another piece of this was extending the statute, or sorry, curbing the statute of limitations for securities cases. So the ability of individuals to bring cases is important to the SEC to supplement the fact that resources are always an issue. Elisse Walter actually worked on this as well, the safe harbor piece. It was really important to Corporation Finance in terms of determining the forward-looking statements issue. So there were a lot of outside interests from different parts of the corporate world that really wanted this legislation. And as the voice of the investor, the SEC was there saying, well, we realize there could be frivolous suits, but there are a lot of suits with merit too and we do not want to make it harder for those suits to be brought. As a result of the interest and the influences on the outside, there was an equal amount of pressure from the Hill to move this legislation. So it was a very challenging process. And at the end of the day, there was a hesitance on the SEC's part to support it. Chairman Levitt worked very close too with the White House because President Clinton was a pretty good expert in the securities area and he actually got very interested himself in this issue. We spent a lot of time explaining our perspective on it, and the President ultimately decided to veto the bill. So it was a very interesting process, and as I alluded to it earlier, very divisive within the building as well.

**KURT HOHENSTEIN:** Who in the Congress was opposing that?

**KATHRYN FULTON:** Senator Domenici was very active on the safe harbor piece. I think he really championed the technology community's perspective on the safe harbor, I am trying to remember who... if Jane remembers who was championing the accounting profession? There was a pretty strong bipartisan interest in this. Senator Dodd was supportive of this as well. So it was a very difficult project here.

**KURT HOHENSTEIN:** Just to follow up there, what, the SEC supported some, did not support some. How did the process play out in terms of what you got to ultimately in the legislation? And who gave where?

**KATHRYN FULTON:** It went through quite a process, as all legislation does. And at the end of it, the real test was whether it was harder for investors, or whether investors were served by the bill. I think that the SEC and the Chairman and the White House concluded that it didn't, it ended up the balance did not really address and somehow undermine investors' enough so that President Clinton decided to veto the bill. But along the way, there were compromises made. A lot of tweaks in the language, that was more like one word or two made a big difference. At the end of the day, I think that the Chairman and also the White House did not believe that it ended up coming out in favor of investors.

**JANE COBB:** I think my example is a little different. Sarbanes Oxley was passed with flying colors, by the time the additional scandals had caused the momentum to shift, and it was signed into law. That was something, a process that took no time at all.

**KATHRYN FULTON:** There is nothing like a scandal.

**JANE COBB:** Right, and so after that, it was basically implementing the act. But during that time also there were also a couple of scandals in the mutual-fund industry, there was



backdating and market timing, and late trading in market timing. There was also one point, an options backdating issue. But in the mutual-fund scandals, you know Congress wants to be seen as fixing things. The way they fix things is to write legislation. There was a big push to try to fix backdating and market timing through legislation. At the time Paul Royce was the Director of Investment Management and the question we had internally was, do you have the authority to do what you need to do to address these problems? General Counsel and Investment Management did believe that they had the authority and trying to convince the Hill staff and Congressmen that we had the authority and that we were going to do something about it, which is, they had to aggressively put into place the staff here in the building, regulatory proposals to deal with these issues. It was sort of a race. If we can fix these issues by regulation, then we would obviate the need for a legislative fix. Because we believed that we had the authority to deal with it, we had to be respectful of the process in terms of what the Hill was demanding. So they would say, we need your help drafting this legislation and so we would actually have to, you know behind-the-scenes help them actually draft legislation that ultimately we really we did not want or feel like we needed, but we had to at least be at the table because they were going to do it anyway and we might as well try to get the legislation the way that we thought it could work best. So there was a sort of tension there between helping them write the legislation that would ultimately did not really feel like we needed. And indicating to staff that just because we are helping you write and draft this legislation does not mean that we need it. That was a little bit difficult to navigate. But ultimately, there were a series of regulations that were quickly put into place here that ended up obviating the need for legislation. But we did help draft some behind-the-scenes.

**KURT HOHENSTEIN:** So that the Congressional demand for legislation in that instance, is that what moved the SEC to adopt regulations that the Congress wanted. You thought you already had the authority to do legislatively but you hadn't done yet?

**JANE COBB:** Right. In the moment they want the fix, they wanted to be fixed and proposing rules, getting comments. The regulatory process takes time and so we had to move quickly. I don't think there was any hesitancy in the building. There was no disagreement that these were serious problems and they needed to be addressed. But it was basically a timing issue for how quickly we could get it out there.

**KURT HOHENSTEIN:** There is at least one more question that you figured that the Congress wanted the fix, but did they want the actual fix or did they want to appear as though they had the fix? Because the legislation seems to me that you still need regulation and enforcement to follow that up, and so you wouldn't really have to fix, but they could say, we had the fix.

**JANE COBB:** Well, I think if you are a Congressperson, then you want legislation that you can show to the public. I mean that is their fix, it is an actual piece of legislation with their name on it. And so we did not give them exactly what they wanted. We did not give them that ultimate win. But in the public eye and in the public domain, there were strong rules that were put in place and it was dealt with that way on a substantive level. So again, I don't think they felt necessarily that they won, but at the end of the day they could say, our hearings and our oversight and pressure, they could take credit.

**KURT HOHENSTEIN:** One more question about in terms of oversight, once the bill is passed and becomes law, how much interest did you experience from either the Congressman who were proposing it, or their staff or the committees about how it was being implemented, how effective the objectives were being obtained? Can you just give me some sense of once the light has gone off the bill what happens?

**JANE COBB:** A lot. In the case of Sarbanes Oxley, there was a great deal of oversight hearings on implementation. I think they continue to be. It has dwindled a lot, but there were numerous hearings to oversee how Section 404 was implemented, and the thresholds where they did the regulations get those right in terms of what companies were covered and not covered, and that debate still goes on today. How costly certain provisions of Sarbanes Oxley are on business, the cost-benefit analysis issues that continues today. There's a lot of post-legislation work. And even directly after a hearing, you have the questions for the record that you have to turn around and then get back to the Hill. But I think depending on what the legislation is, and whether those issues are still in the marketplace and are still being felt and dealt with, and if there are constituencies that do not feel right about the pieces of legislation or how they were enacted, that bears down on Congress and they hold hearings and explore them.

**KATHRYN FULTON:** I would say that oversight is an ongoing area of focus for our function, either in the implementing of legislation, or tracking regulatory developments. I would say another very hot topic which really came to a head when I was there was accounting for stock options. That was because the SEC oversees accounting standards. There were a few that came up, and that was probably the most controversial and important while I was here. And a regulatory issue can get as much interest in oversight as legislative issues. And in some cases more because the SEC can act without Congress. So all the pressure comes to bear on the Commission as opposed to being diffused on the Hill and legislation despite change comment about scandal producing legislation quickly usually takes a real long time. So when you were asking that question, I was thinking about which laws actually got enacted when I was here. And I guess, securities legislation reform was pending when I got here, financial reforms did not make it while I was here. Investment advisors did not make it when I was here. So a lot of things take a really long time. I would say a lot of the oversight that we addressed was regulatory and day to day, in the trenches kind of work that the SEC does would also get a lot of oversight. Constituent increase about a variety of things which generate Congressional oversight. So it is a very effective tool to get our attention and I think Congress knows that, and their constituents know that. So even a more mundane question on the status of a no action letter would sometimes come through Congress as opposed to coming directly through the division. We would feel that. So the increase ranged from a no-action letter to technically helping them draft a bill. But oversight was something we dealt with every day.

**KURT HOHENSTEIN:** You mentioned legislation sometimes takes a long time. So there are pieces of legislation, or ideas at least for legislation that have been around awhile. And that goes to maybe some of the things you both talked about in terms of expertise inside the SEC and on the Hill being who are interested in these issues. Can you describe maybe what it is that sort of pushes it over? In other words is it the scandals are pushed over? Or is it something else?

**KATHRYN FULTON:** Scandals are very powerful at pushing legislation on. Jane alluded to it, but the Sarbanes Oxley was dead until WorldCom hit. It wasn't going to move and I think it had already passed the House side, but it was stalled in the Senate.

**JANE COBB:** It was stalled in the Senate.

**KATHRYN FULTON:** It really took WorldCom... and then I would say that the insider... well, there have been all different kinds of insider-trading issues, but some of the more notorious ones in the '80s gave rise to a lot of inquiries about restricting certain takeovers. It always comes up when there is a high-profile enforcement case. As I alluded to Steven Wymer and

investment advisers. So that's really what Congress is driven by a lot by what the press is focusing on. And with the financial crisis focusing on and in Jane's point, Congress wants to fix it, and they want to get credit for forcing us to fix it. So a lot of it is driven by episodes. And I would say some of the really big legislation takes an episode to move it over the line.

**KURT HOHENSTEIN:** It is your experience as well?

**JANE COBB:** Absolutely. It is driven by headlines, what people care about at the moment. A dusty piece of legislation that was proposed years ago might not have gone anywhere, but given the events of the day can be revived in a heartbeat and pass with flying colors. So it is whatever is driving the members that day.

**KATHRYN FULTON:** And Dodd-Frank obviously would not have happened without the financial crisis. That's probably the most prominent example.

**KURT HOHENSTEIN:** We're coming to the end of our discussion. Any final thoughts you have the job you had, the work you did here, the lessons you learned, change over time. You both have been out of SEC for a number of years now, you still have interactions with legislation. Can you talk about any of those issues, how maybe Congress has changed or how legislating has changed? Or is it the same old game, still sausage making?

**KATHRYN FULTON:** I love sausage though.

**JANE COBB:** I never stopped learning when I was here. You did see some of the issues again and again, but in different contexts and different situations. So I enjoyed it immensely in that regard, the learning about the issues, learning about securities laws. And I do believe that the mission here is a great one. I came to the SEC from FEMA, which also had a great mission. But in the same respect you wear a white hat when you are here and I felt good. And I would say when I left here, I did not think that the morale and building and the issues and the difficulty that the agency was struggling with at the time, I did not think it could get worse. I felt like I left at a very difficult time because of the investigation of the Enforcement Division. But I imagine, this is arm's length because the agency that we deal with most now is the PCAOB at the Center for Audit Quality. But I would say that in just reading the press and thinking about the number of times that Mary Shapiro and others have had to go to the Hill to testify in the wake of the financial crisis, and the Madoff scandal and all of that, I think it probably did continue to get worse. I feel for the agency when I see those headlines.

**KATHRYN FULTON:** I lived the mission too. I do not think there is any other job where I felt the same way about the mission. I have been blessed to have had a lot of really interesting jobs and I guess you could call it my career now, because I've been working at it a long time. But the time here felt unique in that regard, and it was a shared mission. I have been working with others who shared that mission in having this incredible collaboration with extraordinarily dedicated people who are still very close friends of mine because of what we went through together. And that is one of the great blessings of being an alumni here is that shared experience. You can carry it with you no matter whether you stay in his field or you go to another field. So I was very fortunate to have had that opportunity. And to Jane's point, the learning experience was extraordinary. I am not a lawyer either, but I felt like I became one here. Because you just become quite immersed in the securities law and you are surrounded as I said at the outset with amazingly talented people who teach you. They are very generous with teaching and giving you some perspective. So I'm very grateful for my time here, and really enjoyed it. Even though I remember one of my great mentors, Kate McGuire, sat me down once and said, you need to

think about your life, because it was really a 24/7 existence here. It was easy to get caught up in the schedule and not think about the rest of your life to the extent there was any such thing as balance. So it was rather jarring when Kate said that to me. But it was a good reminder that life should be about more than work, but at the time I was happy that it was all about work because I really loved it.

**KURT HOHENSTEIN:** Thank you both, Jane and Kate for your insights into the workings of the securities legislation. This has been an excellent entrée and behind-the-scenes but significant aspect of regulation. A video of today's program is now a permanent part of the virtual museum and archive and an edited transcript will be added later this summer. Again to remind you, the program will be linked to The Boundaries of Functional Regulation Gallery which opens December 1st. Thank you all for being here. Good afternoon. We hope to see you at the ice cream social. Thanks again.