

**Securities Exchange Commission
Interview with Leonard Leiman
Conducted on February 27, 2004 by Richard Rowe**

RR: This is an interview with Leonard Leiman for the SEC Historical Society. The interviewer is Richard Rowe. Mr. Leiman is being interviewed at the office of Proskauer Rose at 2:00 p.m. on Friday, February 27, 2004. Leonard, could you give us a little bit of your background and how it came to be that you ended up with the SEC in the sixties?

LL: Certainly. I was a partner at a law firm in New York called Reavis & McGrath, in those days, and I worked with a senior partner named Howard McMorris. McMorris was a good friend of Manny Cohen's, and also of Milton Kroll, a prominent Washington lawyer, and good friend of Manny's, a former colleague at the SEC. Manny, when he learned that he was to become Chairman, wanted someone who knew more about Wall Street than he admitted that he did, an occasion of modesty to be noted. And I think it was false modesty, because he knew plenty about Wall Street. But Milton spoke to Howard. I had had a couple of transactions with Milton on the other side, so that they both knew me well. They approached me on behalf of Manny; I had a quick meeting with Manny, and it was, I think, love at first sight, and we made a deal. That's how I got there.

RR: And you became the Executive Assistant to the Chairman?

LL: The job was as Executive Assistant to Manny Cohen. It was his first Executive Assistant since he had just become Chairman, and the job was not terribly well-defined. It was

clear that Manny wanted me to be with him a great deal of the time. There were some regular duties that we had, like Congressional correspondence, and making sure that Commission agendas were in order. But Manny knew everything about the SEC; he didn't need me for the routine stuff that much. I sat in on virtually every meeting that he had with an outsider, if I was in the office. I gave speeches; if he didn't want to give them he would send me out to make a speech.

And there were lots of specific things he gave me to do, but I also had a very free-ranging portfolio. If I thought I could be helpful, I would just go out and do it. Sometimes I would tell him, sometimes I wouldn't. It was generally somewhat ambiguous with the person I was speaking to, whether I was there with the Chairman's authority or not. On the few occasions where that was challenged, Manny always backed me up.

RR: Were those external meetings, or meetings with other staff at the Commission?

LL: No, that was meetings with the staff. I think it might be useful to describe the Commission as it was then, because it's considerably different from what it is now. There were of course five Commissioners then also. The other fourCthree of them were about Manny's age, Hugh Owens from Oklahoma, former Blue Sky administrator. Hamer Budge, former I think five-term Congressman from Idaho and a former judge. Their interests were rather narrow and somewhat parochial. Hugh Owens cared that the Blue

Sky administrator's jurisdiction was protected. Hamer Budge cared that small broker-dealers were not discriminated against.

The other two Commissioners were different. The senior Commissioner was Byron Woodside, Barney Woodside, a former director of the Division of Corporation Finance. In fact, Manny succeeded him in 1960 when Woodside was appointed to the Commission. Woodside was a very, very considerate person, devoted to the SEC, did all the work, did his homework very carefully, a very close friend of Manny's on a personal as well as professional basis, and I think was an important part in Manny's total construct of handling the Commission.

And the fifth Commissioner was quite different from everyone else; that was Frank Wheat, who came on board about the same week that I did. He was considerably younger, about a dozen years younger than the others and the only one with real law firm experience. He came from a large California law firm. And he came to the Commission with lots of energy and wanting to do a lot of substantive work. Unfortunately that was not Manny's vision of what the other Commissioners were supposed to do, and that's a story in itself.

RR: Yes, and as you probably know, I eventually became Frank Wheat's legal assistant.

LL: True.

RR: But it was a year or so after the time we're speaking of.

LL: Well, I say it with a smile on my face, but I suspect the experience, at least at the beginning, was a little frustrating for Wheat, because he wanted to do things, and he was certainly capable of doing them. But Manny was a man who believed in consensus; he wanted things smooth and easy and running the way he wanted them to run. And knowing that Frank had energy and wanted to do things, Manny would think of things for Frank to do, and it really didn't gel terribly well until near the end of my tenure when, I think it was June of 1966, George Michaely, who had been the Chief Counsel in the Division of Corporation Finance, decided to fill a gap in the registration provisions of the '33 Act. There was a Rule 133, which created a big hole in the system of registration and resale of unregistered securities. And he produced a large, dense, complex set of rules that cured the Rule 133 problem.

The difficulty was that his bosses, Ed Worthy and Bob Bagley at the Division, didn't support the project. He somehow got it to the Commission anyway. It was plainly going nowhere, but Manny gave it to Wheat to make it his project, see if he could do anything with it. It eventually evolved into the Wheat Report, and Rule 144, which solved a somewhat different portion of the gap in the securities laws, and achieved a great deal of publicity and success for Frank Wheat, which must have given Manny a little bit of a jolt, but it worked out rather well in the end. But that was the makeup of the Commission.

The SEC itself was different. The big division was Corporation Finance. There was no Enforcement Division. There was Trading and Markets, which dealt with the broker/dealers and the markets; Corporate Regulation, which dealt with investment companies. Let's see the Chief Accountant, Andrew Barr and Bill Becker, Chief Management Analyst; and the service personnel like Frank Donaty, who was the comptroller and had the budget, and Harry Pollack who had the Division of Personnel, ably led divisions. These were good people leading them, but the times were different. Things were really much simpler.

Take investment companies, for example. When I was there I think there was forty to fifty billion dollars of total assets in investment companies; today there are two to three billion dollars in money market funds alone. I think there's seven trillion dollars of investment company money now. The New York Stock Exchange would trade a couple million shares a dayCa day! Now it could be a billion shares, hundreds of millions on the average day. The world has changed a great deal since then.

RR: In those days, Leonard, did the regional offices have more power, more isolation and power than they do today?

LL: My sense of it was that everything went through Washington, ultimately. I once was sent out to Cleveland to give a speech. Cleveland was, I think, a branch office, rather than a regional office.

RR: Yes, it was then.

LL: Manny didn't want to give a speech to the Society of Securities Analysts there, so he sent me out, and I of course stopped in at the branch, because nobody from Washington had been there for years. And I was frankly appalled at what I saw. There were boxes of stuff from Washington that had never been opened that was supposed to be in the public reading room, but they just were never opened. I don't think the regional offices were that significant then.

RR: Well, they thought they were, at least.

LL: And there were personalities who led them, and who were significant, and met in Washington regularly. I don't mean to diminish their importance, but there was a centralist tendency then as there is now.

RR: Yeah, I think you're right in saying there were personalities there in some of the regional offices. One's view of those offices are probably colored by whom the Regional Administrator was at the time. You're right, the Commission was much different in those

days. The staff of the Chairman has grown considerably since Manny Cohen's time.

How many people did he have in his office, in addition to you?

LL: Well, we started with me, and Joel Rabin, Gerald Eppner, a legal assistant, and a couple of secretaries, all of them quite able. But Manny came into office just after the Special Study had been completed, and the Securities Acts Amendments of 1964 had just been signed. They were in fact signed on the day that Manny took the oath of office.

Those two pieces required a lot of implementation; there were tons of rules, and rule-making required. For example, one of them was Section 12(g), which required registration of securities that had a trading market, whether or not they'd ever had a Securities Act registration. That pulled in a lot of foreign companies, and that was a problem. We in the Chairman's office borrowed a young lawyer, Jeff Bauman, who eventually became full-time in the office. But we were borrowing him part-time from the Division of Corporation Finance, and he worked quite heavily on implementation matters. So that was maybe three-quarters of a person.

And then there came a time a little bit later when the decision was made that we needed another full-time lawyer. Jeff was pretty busy with implementation, so we were looking elsewhere, and by then I had a lot of friends around the building, and I asked around for recommendations, and the name came up, Richard Teberg. Well, I looked him up on the organization chart; there was a Richard Teberg. He had a closet of an office; I think it

had a window, but just barely. He worked alone, and he had a title that was something like Chief File Clerk, or something. It meant nothing, the title.

Well I interviewed Teberg and he was just superb, and I went to Bob Bagley who was the Associate Director of the Division of Corporation Finance and certainly the Chief Operating Officer of that division. He had his fingers on everything. And I went to him I remember the conversation very clearly. I said, "Bob, I'm sorry, but I'm going to have to borrow somebody full-time from your division." And he said, "That's too bad. We'll be sorry to lose Jeff." And I said, "Not Jeff, Dick Teberg." And he turned red and half rose in his chair, and he said, "How did you find Dick Teberg?"

RR: [Laughs]

LL: [Laughs] Dick Teberg came on board; he was a terrific addition, did other government work afterwards, and eventually practiced law; unfortunately he died quite young.

RR: You mentioned the implementation of the '64 Act Amendments. There was actually more to that than just the registration of these over-the-counter companies.

LL: Well, sure. I just gave you some of the things that required manpower from the Chairman's office. I might say that at some point early in my tenure, Manny had a quite serious heart attack. This came fairly early. I'm not sure when it occurred, but I had been

there long enough to certainly know where the men's room was, and to know a lot of the people, but it was pretty early. I didn't have a complete grasp of the Commission. But under the structure of those days, everything came to the Chairman's office. There was no Executive Director of the Commission. The Chairman was responsible for personnel, budget, operations, promotions; everything came through the Chairman's office. Manny was out for four months.

In the beginning of that, a fairly long period, he was totally out of communication with the office. Woodside, as I said, was a quite devoted friend of Manny's, and we sat down and he said, "There's going to be a Commission here when Manny comes back, and it's going to be well-run." And without any statutory authority that I know of, Woodside, as the most senior Commissioner, simply assumed the central chair at Commission meetings, and ran the agenda of the Commission.

And I in my immature ignorance did whatever I could in the Chairman's office to keep things going. The Congressional correspondence and important correspondence kept getting handled. In fact, there was a book on broker-dealer regulation that was written by a staff member which was destined to be published imminently, and Manny had promised a foreword, and Manny wrote a foreword while he was incapacitated, signed by Manny Cohen, which gave him some pleasure, I think, after he discovered he had written it.

[Laughs]

And then some things were mechanically difficult. If an income tax return was required as part of an investigation that required the signature of the Chairman. Somehow we solved that problem. I'm quite sure I didn't forge the Chairman's name, but somehow the Chairman's office requested and got income tax returns when needed. So, we improvised a lot, but bless him, Woodside ran an awfully good Commission during that period, including some important things. For example, the Texas Gulf Sulphur case was decided while Manny was out of the office.

RR: There also was, I guess Manny was there when it was finally completed, but there was a big study that was done during his tenure, or at least completed during his tenure.

LL: The investment company study?

RR: Yeah.

LL: Yes, the study was completed, and it plainly contemplated legislation. There was an interesting attitude toward legislation in those days. Today we seem to get statutes almost every session of Congress. In those days, there was very little legislation, and the Commission was afraid of legislation. The theory was that if you went to Congress and asked for something, you never knew what you were going to get. So they didn't like to ask.

When it was clear that there was going to be a legislative program this was one of those things I did on my own I went to Sol Freedman, who was Director of the Division of Corporate Regulation, which included investment companies, and I told him that I had noticed at Commission meetings there were some cases that were roadblocks to regulation. They didn't challenge cases; if there was a district court case somewhere that went against them, they'd live with that case. They didn't try to do the same thing in another district and get a contrary decision. And I said, "Well, if that's the way you're going to behave, how about legislation fixing the problem?" Freedman absolutely would not talk to me about it. He would not contemplate asking Congress for anything. So I went around, and I went to other people for suggestions. This was something that built up, and was completed after I left, but we did get some legislation out of it.

RR: Yes, the legislation finally came out in 1970.

LL: Yes.

RR: But I recall when that study had been submitted to the Commission, and my recollection is that Manny was not happy with the way it was drafted and presented, and he sat a group around in the Commission meeting room and said, "You're not leaving until this is satisfactorily drafted."

LL: That would have been typical behavior.

RR: Yes.

LL: But most of the time, the consensus buildingChe liked consensusCwas done privately.

There was no Sunshine Law in those days. By the time something came to the Commission table for consideration, it had been pretty well worked out. It was very rare that there was conflict at the Commission table, and I don't remember any dissents, really, until after I left. That original Commission didn't fight with each other at all.

RR: But it was much easier in those days, because as you mentioned, there was no Government in the Sunshine Act, and Commissioners, staff members could get together informally and discuss things without putting a notice in the Federal Register, and having the meeting open, or tape-recorded, for everybody to hear.

LL: There is a huge difference.

RR: There is a huge difference.

LL: But Manny, if somebody clearly didn't like what he wanted, and he was convinced that he was right, he would simply say, "We have to do this. If not, I'll resign, and you'll have to get yourself another Chairman." That was his line. And somehow we managed to work out the consensus.

Now that might mean changing his position. He was not afraid of picking up somebody else's idea, and working it into what he had started with, particularly if it was necessary to achieve that agreement that he wanted. Not always, but not infrequently. I think that his general intellectual makeup was part of that. He was extremely intelligent, extremely intelligent, had an excellent memory, could be quite intuitive in terms of making connections, and creative in terms of making changes that would satisfy people. And he was a hard worker. He would work hard to achieve that agreement that he felt was a better way of conducting business.

He also had—we really haven't mentioned—a really excellent group of people around him. Some of their names I've mentioned, Bagley, his boss Edmund Worthy, Ralph Saul and Irving Pollack in Trading and Markets. Wonderful people, and younger people, Gene Rotberg, Mike Eisenberg, Allen Mostoff. I'm just picking names out of a hat, but they're all of them very, very good people, some left over from the Special Study, some new hires. There always seemed to be good senior management, and a steady flow of bright new people at the Commission, which made it a delight for me to work there, and of course meant that the level of the Commission's work was of a very high order.

RR: And Manny, if I recall, was a—I guess I could call him a hard taskmaster, and strove for excellence not only in himself, but in those around him, that he wanted the best work produce that could be produced.

LL: He didn't mind work. If it was necessary to redo something, there was always time to redo it. And that fit my law firm training, so it was a good match for us. I didn't mind, even though we didn't have computers where you could make changes easily. We were still working with carbon paper. I've mentioned the Texas Gulf Sulphur case before, which came to the Commission table while he was away. One thing that wouldn't have happened had he been there was that there was a clerical employee in the Assistant Secretary's office, somewhere in the administration, who was mentioned in the CI don't think as a defendant, but was mentioned in the complaint. And the White House was a little miffed that they hadn't been warned. Not that it happened, but that they hadn't been warned that it was going to be happening. That was part of my learning process; I wouldn't have missed that a second time.

RR: That was Lyndon Johnson's.

LL: Lyndon Johnson was the President. He was very supportive of Manny. He liked Manny. I don't remember any interference from the White House at all, on anything, other than support. Washington in those days was full of my contemporaries, one of the things that attracted me to the job. This was part of the Kennedy heritage, I suppose, but not entirely. One of the friends was Joe Califano, Johnson's Chief Adviser on domestic matters; he was a friend from New York, and Manny and I went over to see him, worked on him to include a line in the State of the Union Message, which was a consumer

message. We convinced him that the SEC was really a consumer agency. We got a line in the message, and Manny was very pleased with that.

RR: I recall during Manny's administration there were moves to divest the Commission of its authority over public utility holding companies. Were you there at that time?

LL: Yes. I don't think he would have minded that, frankly.

RR: My recollection is that he was ready--Lee White who was then the Federal Power Commission that he was ready to have Lee assume all that responsibility.

LL: One of the other things I'm thinking now of the wonderful staff I mentioned before. One of the things that we did during I say, we did the Chairman did, and I helped with during my two years was a staff reorganization. I learned a lot then about how personnel works, and budget works. The Division of Corporation Finance was the glamour division. They had plenty of people, and plenty of able people, and the Division of Corporate Regulation was limping somewhat.

And the device to cure that was to take the registration aspects of investment companies, which because it was a '33 Act function, was in the Division of Corporation Finance, and moving that to Corporate Regulation with the rest of investment company matters, so that all investment company business would be done in the one division, as it still is today.

To do that meant you had to move people from Corporation Finance to the Corporate Regulation Division. They had to be selected, and Henry Pollack and Frank Donaty at personnel and budget had to make sure that those changes got made. It sounds easy, but CI mentioned Bob Bagley before, and believe me, it was a negotiation with Bob Bagley. He was wonderful; I remember there were two persons with similar names in the Division of Corporation Finance, one of whom we badly wanted to move over to Corporate Regulation, and every list that ever got produced, somehow those names got confused, and it was always the wrong one. [Laughs]

And it would be pointed out to Bagley, and he would say, "Oh, I wonder how that happened?" And it would be corrected, and then it came right back again. But we got the right one in the end. I remember, in fact, I did some proselytizing. I remember talking with Allen Mostoff about how I thought both the division would be bettered by the change if he moved over there, and that his career would be wonderful if he moved over there. That turned out to be true; he became Director of the division.

RR: Yeah, it's interesting that you picked up on that one, because after you left, maybe five years later, there was another change, and they moved the disclosure operations back to the Division of Corporation Finance, for three or four years, and then they were moved back to Investment.

LL: Really? I didn't know that.

RR: Yeah. I knew nothingCwell, I can't say I knew nothing about investment companies, because I workedCwas the Vice President of a management company for a year, but I was an Associate Director of Corp Fin, and they gave me the wonderful responsibility of supervising these people whose work I knew very little about. [Laughs] I was not unhappy to see them go back to where they really belonged.

LL: It's notCthey're not exciting, registration statements, for the most part.

RR: Yes. Occasionally, though, when some new product came on line, but looking at a registration statement for a variable annuity is not the way I wanted to practice. [Laughs]

LL: I mentioned that there was no Enforcement Division in those days. I was an opponent of creating an Enforcement Division. It came up regularly; I'm sure every year it came up. And when it came up while I was there I took the position that it was important to keep some enforcement capability, not centralized, but in each of the operating divisions, so that it was closer to the people who made the regulations, and knew what was enforceable, and what should be enforced, rather than taking a bunch of litigators and leaving them on their own, in part because litigators quite properly just want to win, and they don't care how they win, and sometimes that's not a good idea.

I was amused to see in this last week or so that after years of a Division of Enforcement separated from the divisions, I think Rod Hills did that. I must say that the Commission's been blessed with quite good Enforcement Directors who ran good divisions during all this period. But the current Director has just announced that he's creating groups of enforcement people to work with each of the divisions, so that what I thought was missing will be replaced. So it's come full circle around.

RR: Were there any amusing things that you recall occurred while you were there, without embarrassing any people that are still living?

LL: Well, not kind of amusing, but things that I remember. I said I had lots of friends in Washington and in other places, and they were occasionally useful. One of the things that went on for a long time was conflict with IOS and Bernie Cornfeld, who ran a huge IOS was a huge investment company, Swiss-based enterprise, called the Fund of Funds, which was a fund, an offshore fund which had in its portfolio United States regulated mutual funds. And there were always problems, regulatory problems.

I remember a Commission meeting. This may have been while Manny was away. At which a friend of mine was arguing on behalf of IOS, and I was giving him a little bit of a hard time with his argument. Barney Woodside realized that the lawyer was getting himself into trouble, he didn't need me to help him get into trouble. And Barney passed me a note which I think I have preserved somewhere, which I treasured, on blue-green

SEC notepaper, those little memo pads that they had. And it said, "Lenny, West Virginia [where Woodside lived], has lots of rocks. We have a saying, 'leave 'em lay where Jesus flung 'em', BDW," meaning, leave the lawyer alone, he'll get into trouble by himself.

And he did. That eventually morphed into a big investigation by Corp Reg.

I remember one day, one weekend, I got a telephone call saying that Alan Gordon, who was I think Chief Counsel in that division, was working on the investigation, and he was in Guam, and wanted to go to Japan, but could not get a flight for something like four or five days, and there was nothing to do in Guam for four or five days. Could I get him on a military plane to Tokyo? One of my contemporaries worked in a staff position at the Pentagon. I found him, I called him up, and I talked to him. John Steadman became a D.C. judge, actually. "John, can you get this fellow on a plane?" He said, "I can, but the General who would do it is playing golf. Is it worth calling him on the golf course?"

Well, I appealed to his patriotism. I said, "Of course, it's your problem, but you don't want to sterilize an important official from this agency for the better part of a week."

And he called, and by God, Gordon was on that military plane, I think, the next day. He was in Tokyo. Things like that were fun for me; they made the job a little more interesting. Another adventure for me was moving the Commission, which began about midway and probably finished toward the end of the two years. We had been in these little old temporary buildings, World War One temporary buildings, which was not bad because it was good to bring Wall Street down there, all dressed up in these shabby old headquarters, where all the power lay.

But Manny convinced the powers that be that a move, not to Potomac, Maryland, or wherever in Maryland they wanted to move us, but rather up Capitol Street would be a good thing to do. Bill Becker, who was a very senior management staff person was in charge of the move. It was a logistic job that for the Chairman's office, I was responsible mostly to make sure that we had a very good office for the Chairman and his staff. And the only wrinkle that I never did solve was that we had moved all filing desks down to the first floor and the level below the first floor. In the old building, everything was open. People wandered the halls, journalists wandered the halls, messengers wandered the halls.

There was no security control at all, and there was a desire to put some discipline into that. So everything that brought casual strangers into the building were confined to the ground floor and below, and access above that was more restricted. But the woman who ran the '33 Act filing desk claimed that here was a function that was really a regulatory function, because she screened every file to make sure that it met the requirements, and that therefore she should be upstairs with the regulators on the fifth floor, and so that there would be immediate access to the powers that be, if necessary. She took that position, and nobody challenged her. I never found out what power she had, what body she knew was buried where, but no one ever argued with her. When the new building opened up, she was upstairs with everybody else, and it remained there until she retired,

when it was promptly moved down where it belonged, down with every other filing desk.

Life in the bureaucracy.

RR: And I remember at times it used to get very crowded on the elevator, because all the messengers would be taking their filings. There was no Edgar in those days, you had to file everything on paper.

LL: Now, we talked a lot about '33 Act registrations, and 1940 Investment Company and Advisers Acts, but there was also market structure, which didn't occupy quite as much attention as it did this year, but certainly occupied a lot of Manny's attention. The biggest market structure problems were Rule 394, which became 390, which required that all New York Stock Exchange members trade New York Stock Exchange-listed stocks on the New York Stock Exchange, which bothered people like Morris Shapiro, a bank stock, over-the-counter dealer and not a New York Stock Exchange member, who was disadvantaged, because I think it was Chase moved onto the New York Stock Exchange.

And Don Weeden, of Weeden and Company, who ran what's called a third market firm, he made markets in New York Stock Exchange-listed stocks, even though he was not a New York Stock Exchange member. They were constantly badgering Manny to get rid of Rule 394. And there was also the problem of New York Stock Exchange fixed minimum commissions. Those commissions were required to be charged on every New York Stock Exchange-listed trade by a New York Stock Exchange member, and they were too high. The fees were too high.

You had the classic economic problem of a too rigid price structure that was overpriced, so you got rebates immediately, and a really terrible practice called give-ups developed, where a stock exchange firm would get a large order, say an institutional order, which paid the same per share price as a hundred share trade per share. And the institution giving the transaction could say, "Give up so much of the commission," that is, transfer so much of the commission to another New York Stock Exchange member.

RR: I assume they were doing that because the other New York Stock Exchange member was selling mutual fund shares, or doing something to benefit the fund.

LL: Well, that was a typical transaction thing.

RR: Things haven't changed too much. [Laughs]

LL: In the IOS Fund of Funds business, IOS had a great deal of New York Stock Exchange business, and they ran some funds on their own. And all of their give-ups went to a person who supposedly lived on an island in the Bahamas, was a registered representative of a New York Stock Exchange firm, but never came to the United States. And all of the "give-up" money got transferred to that broker's account, and presumably didn't help the investment company at all, but went back to Cornfeld.

Well, those two things, which really had to be solved and eventually were, were the cause of a great deal of friction between Manny and the New York Stock Exchange, on the one hand, and Weeden and Shapiro on the other. Shapiro was always saying that he had an anti-trust lawyer in the car downstairs, with the motor running, with the papers ready.

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[Begin Tape 1, Side B]

LL: So he was in the car with the papers ready to be served. I never knew whether that was true or not, but that was Morris Shapiro's line. And Manny, for my two years, spent those two years trying to reconcile these positions in some way, never did, and eventually helped force the New York Stock Exchange changes, particularly on commissions. It took a long time to do, and it was quite painful, but that was an example where his consensus building simply didn't work.

RR: Were there other things during your two years there that are worth recalling?

LL: There were lots, particularly market structure, enforcement, and trading practice issues. To me they were a full two years; they went by very quickly.

RR: It certainly sounds like it, both in terms of substance, and in terms of administration.

You certainly got involved in the administration from the ground up.

LL: I found to my surprise that I liked administration, and so I didn't mind working on things like budget. Manny handled the budget very easily because he had been doing it for a lot of years. But I found I enjoyed it. McNamara in the Department of Defense, and his whiz kids, had developed a budgeting technique called program planning budget, PPB. That was a way of budgeting not by simple numbers, but by deciding what it is you wanted to achieve, and then budgeting to achieve that. In the Pentagon it meant you don't just build a cruiser, you decide how much fire power you want, and how much speed, and how big it should be, and then you work backwards from that to the budget, rather than simply building another cruiser. It's something of a leap from that to the SEC, but the same principles applied.

I thought that was pretty good, and I didn't particularly like the way the budget worked at the SEC, because it was based on statistics that really didn't mean too much: how many investigations you opened, and how many you closed, and how many things you completed. And these didn't have any quality to them; they were simply numbers. So I, again, striking out on my own, I made a date with the Bureau of the Budget examiner, who was responsible for the SEC Donaty must have been dying when he heard about it, but I made a lunch date with the examiner. We had lunch, and I started talking about PPB and our yardsticks for the budget.

And the poor young man from the Budget was turning a little white as I did this. I sensed his distress, and I finally got out of him that he had finally, after a long time, felt that the measures that he and Donaty had worked out were the perfect measures for deciding what the SEC's budget should be. I retreated as fast as I knew how, changed the subject, and we had a pleasant lunch for the rest of it. And I never raised it again.

The Bureau of the Budget did, however, present a program on PPB, and we were asked to send a representative for a year's training. Manny, he was stubborn about this. He insisted that this was nothing but an accounting problem, and that an accountant should go. In fact, it had nothing to do with accounting. It was really budgeting. But Andy Barr must have found somebody who was interested in it. He was a nice guy; he went and he spent his year at the PPB school, and enjoyed it. He came back as a budget expert.

RR: Well, in my time at the Commission I think we went through three different types of budget. I think PPB eventually was one of them, and then after that, whatever administration happened to be there, their form of budgeting was used. But my experience was, it was still the numbers. Somehow, whatever the concept was, the end result was a bunch of numbers: we're going to do this many of these things this year.

LL: Well, you could manipulate the numbers. You could open and close investigations fairly easily. Although to go back to Barney Woodside a little bit Barney Woodside read

everything. I don't know whether this was an explicit understanding with Manny, but Woodside, who had eye trouble, he would squint as he read, and I think it was a little awkward for him to read, but he read everything, particularly requests for opening investigations, and beginning proceedings.

And it was common practice for a division engaged in one of those events to have a very straightforward theory of why the investigation should be opened, and what the legal theory was, but also to throw in a secondary one that could be a quite far-reaching, novel interpretation. It would just be slipped in as a secondary justification for the investigation or proceeding, useful to be used as a threat with other people the next time around, or maybe even it would become a precedent, and it would become a main cause the next time. Woodside would hunt every one of those down, and insist, when it came up to the Commission, that it be removed, and that only the established reason be given.

We talked about accounting and the budget process. We have to talk about Andy Barr, the Chief Accountant. I have to say that the only formal accounting training I had was in law school, which I think was one of my lowest grades in law school. But I did a lot of accounting in practice, working on registration statements, and I like accounting theory. I'm a terrible bookkeeper, but I like accounting theory. I used to frequently talk to A. Barr, as he always signed himself, A-period Barr.

One of the things that was happening during those two years was that conglomerates had become a favorite organizational device, and Wall Street's current darlings were the conglomerates. And there was some very funny accounting being developed. And I remember being asked by Barr to sit in a meeting where one major conglomerate out of California was doing something really strange. He asked me what I thought about it, and I said, "You ought to outlaw it." He said, "That's what we think, too." And they did. So I really had a wonderful job. I wandered all over the Commission, and felt that I was doing something worthwhile, and certainly enjoyed every second of it.

RR: What ultimately influenced you to cut it short after two years?

LL: Well, I had made a two-year agreement with Manny, that I would do it for two years. That was my estimate of what it would take me to, I would say, achieve something, or do something meaningful. And Manny urged me to stay, if not on that job, on some other job. And of course, Washington was always there. But I did not like the idea of having one client. So I didn't want to stay in Washington; I liked the diversity of practice. And I had a feeling, as far as the SEC was concerned, that I was getting a little bit jaded, in the sense of accepting the SEC too much, and the SEC's attitude, and not being questioning. I was becoming co-opted by the Commission, and therefore losing a little bit of my edge, and that it was time to go.

Part of the permission to leave was contingent on finding a successor, which was easy because I'd had a contact with David Ratner, whom I knew from law school. And the

idea of somebody teaching CDavid was at CornellCapealed to Manny. He admired scholars. And it was an easy transfer for me. I don't know that the relationship that I had with Manny was perhaps different because I was first, and the heart attack was a formative experience for both of us. I remained quite close to Manny for the rest of his life; we were in quite regular contact. He died in 1977. In 1978 the *George Washington Law Review* did a memorial issue to him; I wrote a little piece in that which describes my feelings about Manny, and my appraisal of him. I can reflect that here today, and it still holds true, I think. I thought he was a wonderful Chairman.

RR: Some would say that he was the best Chairman that the SEC ever had. But some people would say comparisons are insidious. Each Chairman had his own times to deal with.

LL: You asked about humorousCI don't know whether this is humorous, but it sort of reminded me again of the Texas Gulf Sulphur case. One day, Paul Mason and I were dispatched to a meetingCPaul Mason, I forget where he was at the Commission, what division he was in.

RR: Investment Management or Corporate Regulation, whatever it was then.

LL: That's where he certainly wound up. Paul Mason and I were sent out to a meeting of state securities administrators in Phoenix, to make sure that they adopted a uniform broker-dealer registration form. Every state had its own form, and that was deemed to be

onerous. The SEC wanted to help the industry. The SEC did enough, the industry thought, to hurt them, so that the SEC should help them by fostering this uniform form.

Well we went out there and lobbied for a couple of days, and we had an absolutely solid majority for a vote that was to be taken the last day after lunch. Well, at lunch that day was a Chicago lawyer addressed the meeting, and I guess Texas Gulf Sulphur case was still pretty new. He spoke on the case, which he analyzed as a device by the SEC to take the fraud jurisdiction away from the state securities commissioners, and contain it within the complete control of the SEC. And he was a spellbinder. [Laughs] He convinced them that they should not do anything to help the SEC get control of anything, and they defeated the uniform form as a result.

So Paul Mason and I limped back to Washington; we decided to go back through Las Vegas. [Laughs] We spent a night in Las Vegas on the way home to calm our spirits a little bit. Things like that were fun, I must say.

RR: Is there anything else that you want to tell us, or we can wind it up now?

LL: I think the only thing that I would add is again the huge difference between then and now. It's how many years, from '64 to now? It's forty years. The size of transactions I mentioned before. There's a lot more delegation now to the staff. The role of the Commission is a little bit different—much, much more attention to market structure. The

problems seem to be that there are huge accounting problems, and there are huge market structure problems, enforcement problems. But they're substantively different problems from what we had. Now, I don't envy the current Commissioners and the job they have, particularly without a Chairman able to pull everybody together, or a set of Commissioners who are willing to be pulled together. It's not an easy time for the SEC, and I think I was there at a time and place that were just right for me, and I'm grateful for the opportunity.

RR: Well, thank you. You've given us important insights on an important era in the Commission.

LL: I enjoyed it Dick, thank you.

RR: Thank you. And we are concluding at 3:20 p.m.

[End of Interview]

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